

5 NOVEMBER 1946

I N D E X
of
WITNESSES
(none)

I N D E X
of
EXHIBITS

| <u>Doc. No.</u> | <u>Pros. No.</u> | <u>Def. No.</u> | <u>Description</u> | <u>For Ident.</u> | <u>In Evidence</u> |
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| 219P(41) | 967 | | Address Delivered by the Secretary of State on "Our Foreign Policy" at Washington on 17 March 1938 | 9490 | |
| 219P(80) | 968 | | Excerpt from a Communication of Ambassador Grew to HIROTA, Foreign Minister in Tokyo, dated 31 January 1938 | 9493 | |
| 219P(52) | 969 | | Excerpt from a Message from Ambassador Grew to Foreign Minister HIROTA in Tokyo, dated 4 February 1938 | 9496 | |
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| 219P(53) | 971 | | Record of Policy-making Conference of the Highest Japanese Government Officials occurring in January 1938 | 9503 | |

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| 854-A | 972-A | | Announcements of the Japanese Government re the China Incident (Vol 3) Statement of Imperial Government, dated 16 January 1938 | 9504 | 9505 |
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| 854-D | 972-D | | Statement of the Japanese Foreign Office Spokesman, dated 12 October 1938 | | 9512 |
| 854-E | 972-E | | Text of the Japanese Govern- ment's reply to the Note of 6 October 1938 of the U. S. Government re American Rights and In- terests in China | | 9513 |
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| 854-H | 972-G | | Address of Foreign Minister HIROTA at the 73rd Session of the Diet delivered on 22 January 1938 | 9521 | |
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| 219P(55) | 974 | | Excerpt from American Embassy in Japan to Foreign Minister, dated 30 May 1938 | 9536 | |
| 219P(56) | 975 | | Excerpt from a Statement of the American Embassy in Japan to the Japanese Minister for Foreign Affairs, dated 31 May 1938 | 9538 | |
| 219P(57) | 976 | | Excerpt from Statement of American Embassy in Japan to Foreign Minister, dated 10 June 1938 | 9540 | |
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| 1634-J | 978 | | Record of Conference with the Foreign, War, Navy and Finance Ministers 30 June 1936 entitled "Matters Pertaining to the Outline of State Policy" | | 9548 |
| 1634-K | 979 | | Record of a Conference of Prime Minister, War, Navy, Finance and Foreign Ministers, 11 August 1936 entitled "Fundamentals of our National Policy" | | 9549 |
| 219P(58) | 980 | | Excerpt from a Communication of Ambassador Grew to Ambassador UGAKI, Tokyo, dated 28 June 1938 | | 9554 |
| 219P(59) | 981 | | Excerpt of Communication from the American Ambassador in Japan (Grew) to the Japanese Minister for Foreign Affairs (UGAKI), Tokyo, dated 16 August 1938 | | 9555 |
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| 219P(61) | 983 | | A Communication from Ambassador Grew to Minister ARITA dated 31 October 1938 | | 9557 |
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| 219P(62) | 985 | | Excerpt from a Statement of Ambassador Grew to Minister ARITA, Tokyo, dated 30 March 1939 | | 9559 |
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| 219P(90) | 1004 | | The American Ambassador in Japan(Grew) to the Japanese Minister for Foreign Affairs (ARITA), dated 20 March 1940 | | 9626 |
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| 1383-B | 1006 | | "Certificates of Authenticity" | | 9633 |
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Tuesday, 5 November, 1946

INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The Tribunal met, pursuant to adjournment,
at 0930.

Appearances:

For the Tribunal, same as before, with the
exception of the HONORABLE R. B. PAL, Member from
India, not sitting.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

(English to Japanese and Japanese
to English interpretation was made by the
Language Section, IMTTFE.)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: All the accused are present
4 except OKAWA, HIRANUMA and MATSUI, who are represented
5 by their respective counsel. We have certificates
6 of the illness of the accused MATSUI and HIRANUMA,
7 from the medical superintendent of Sugamo Prison. He
8 certifies they are unable to attend the trial on
9 account of illness. Certificates will be recorded
10 and filed.

11 Mr. Williams.

12 MR. E. WILLIAMS: Mr. President, at the
13 close of yesterday's session I had offered IPS document
14 No. 219P(41) in evidence and objections had been made,
15 and the Court had not as yet ruled on its admissibility.

16 THE PRESIDENT: That is President Roosevelt's
17 speech, isn't it?

18 MR. E. WILLIAMS: No, your Honor, this is an
19 address delivered by the Secretary of State.

20 THE PRESIDENT: 219P(41).

21 MR. E. WILLIAMS: Yes. I did not intend to
22 read all of that, but I was offering it in evidence.

23 THE PRESIDENT: Well, parts of it may be
24 quite material and other parts not. So we have to
25 trust your judgment to some extent.

1 I noticed I said yesterday that although it
2 referred to Japan it did not say much more.

3 MR. E. WILLIAMS: We are offering the entire
4 document in evidence and I propose to read the first
5 three paragraphs and the fifth paragraph only.

6 THE PRESIDENT: But before that document
7 there was a speech of President Roosevelt upon which
8 we came to no final determination. Do you propose
9 to read any more of that speech?

10 MR. E. WILLIAMS: No, your Honor, please.

11 THE PRESIDENT: Well, read the parts of the
12 Secretary of State's address which you mentioned.

13 Admitted on the usual terms.

14 CLERK OF THE COURT: Prosecution's document
15 No. 219P (41) will receive exhibit No. 967.

16 (Whereupon, the document above
17 mentioned was marked prosecution's exhibit
18 No. 967 and was received in evidence.)

19 MR. E. WILLIAMS: I read from prosecution
20 exhibit No. 967, paragraphs 1, 2, 3 and 5, as follows:
21 "During the early months of the conflict in
22 the Far East I appealed on several occasions, in the
23 name of our Government, to both Japan and China to
24 desist from using armed force and to resort to the
25 well-recognized processes of peaceful settlement for

1 the adjustment of whatever differences existed between
2 them. I said that we would be glad to be of assistance
3 toward facilitating, in any manner that might be prac-
4 ticable and mutually agreeable, resort by them to such
5 processes.

6 "On August 17, and with frequent reiteration
7 thereafter, I stated that we did not intend to aban-
8 don our nationals and our interests in China.

9 "From time immemorial it has been the prac-
10 tice of civilized nations to afford protection, by
11 appropriate means and under the rule of reason, to
12 their nationals and their rights and interests abroad.
13 This policy has been pursued by the Government of the
14 United States throughout the existence of our country."

15 Then, skipping down to paragraph 5:

16 "All these are important. But the interest
17 and concern of the United States--whether in the Far
18 East, in any other part of the Pacific area, in Europe,
19 or anywhere else in the world--are not measured alone
20 by the number of American citizens residing in a par-
21 ticular country, or by the volume of investment and
22 trade, or by exceptional conditions peculiar to the
23 particular area. There is a much broader and more
24 fundamental interest--which is, that orderly processes
25 in international relationships based on the principles

1 to which I have referred be maintained."

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1 We next offer in evidence IPS document
2 219P (80) which is from exhibit 58. This is an excerpt
3 from communication of Ambassador Grew to HIROTA,
4 Foreign Minister in Tokyo, January 31, 1938.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 219P (80) will receive exhibit No. 968.

8 (Whereupon, the document above
9 mentioned was marked prosecution's exhibit
10 No. 968, and was received in evidence.)

11 MR. E. WILLIAMS: We read prosecution
12 exhibit 968.

13 "THE AMERICAN AMBASSADOR IN JAPAN (GREW)
14 TO THE JAPANESE MINISTER FOR FOREIGN
15 AFFAIRS (HIROTA)

16 "TOKYO, January 31, 1938

17 "(Excerpt)

18 "The American Government has recently re-
19 ceived information from its representatives in China
20 to the effect that a provisional regime in Peiping
21 has caused a revision to be made of Chinese customs
22 rates on certain articles entering into the foreign
23 export and import trade of North China. My Government,
24 regarding the Government of China as the only auth-
25 ority which can legally cause a revision to be made in

1 the Chinese customs tariff, is constrained to invite
2 the attention of the Japanese Government to this
3 arbitrary and illegal assumption of authority by
4 the provisional regime in Peiping and to point out
5 that the action of the provisional regime may have
6 a seriously adverse effect upon the integrity of the
7 Chinese customs, with regard both to administration
8 and to revenues, and that the revision of rates does
9 violence to the principle of a uniform Chinese ta-
10 riff at all ports.

11 "The Japanese Government shares with the
12 American Government and with other Governments a
13 long established and well recognized interest in the
14 integrity of the Chinese customs administration, and
15 the American Government has expressed its confident
16 belief that the Japanese Government reciprocates the
17 earnest desire of the American Government that the
18 integrity of the Chinese customs be respected. The
19 action of the provisional regime at Peiping in re-
20 vising rates of duty seriously threatens the inte-
21 grity of the customs. For the creation and the acts
22 of the provisional regime the Japanese Government
23 has an inescapable responsibility; and when those
24 acts are of a character, as in the case of the re-
25 vision of the rates of duty, which affect the in-

1 terests of foreign Governments, it is to the Ja-
2 panese Government that those Governments must add-
3 ress their representations."

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1 We now offer in evidence IPS document
2 219P (52), from exhibit 58, which is an excerpt from
3 a message from Ambassador Grew to Foreign Minister
4 HIROTA in Tokyo, dated February 4, 1938.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 219P (52) will receive exhibit No. 969.

8 (Whereupon, the document above
9 mentioned was marked prosecution's exhibit
10 No. 969, and was received in evidence.)

11 MR. LEVIN: (Speech heard but not understood
12 by the official court reporter.)

13 THE PRESIDENT: I understand that neither
14 the court reporter nor the translator heard what you
15 said, Mr. Levin.

16 MR. LEVIN: Mr. President, we object to the
17 admission of this document in evidence, on the ground,
18 first, that the evidence is cumulative and it has
19 already been covered in the Chinese phase of this
20 case.

21 THE PRESIDENT: Mr. Smith.

22 MR. SMITH: If the Court please, on behalf
23 of Mr. HIROTA I object to the tendered exhibit and
24 the objection also applies to the preceding one,
25 that these notes from the American Ambassador are

1 nothing more than the assertion of a claim, and
2 unless the prosecution reads the reply to it the case
3 is being presented in a very unfair manner.

4 THE PRESIDENT: This and the preceding
5 document are relevant and more than material. The
6 question of whether it is cumulative evidence is
7 peculiarly one for the Court. I do not say the ob-
8 jection is not open for the defense, but it is for
9 us to say whether we have or have not heard enough
10 about any particular matter. When my colleagues
11 intimate to me that they have heard enough on any
12 particular issue I shall take action. So far I have
13 no such intimation.

14 The objections are overruled.

15 MR. E. WILLIAMS: We read prosecution
16 exhibit No. 969.

17 "THE AMERICAN AMBASSADOR IN JAPAN (GREW)
18 TO THE JAPANESE MINISTER FOR FOREIGN
19 AFFAIRS (HIROTA)

20 "TOKYO, February 4, 1938.

21 "EXCELLENCY: I have the honor to refer to my
22 note No. 866, of January 17, 1938, and, under instruc-
23 tions from my Government, to inform Your Excellency that
24 numerous complaints are being received by the American
25 Government of the utter disregard shown by Japanese armed

1 forces in China for American property. Among such
2 cases are:

3 "SOOCHOW: According to American missionaries
4 who visited Soochow a number of times between November
5 21 and December 21, on November 24 they found that
6 property of the Baptist Mission had been broken into
7 and thoroughly looted, and they observed Japanese sold-
8 iers looting the ladies' home and school buildings. On
9 the same day these missionaries inspected the American
10 Presbyterian Mission Hospital, saw one building burning,
11 and found that the administration building had been
12 looted. They inspected the Methodist Episcopal Mission
13 Hospital, and found that the lower floor of the doctor's
14 residence had been looted, and saw Japanese soldiers en-
15 gaged in looting the upper floor. On November 26 they
16 inspected property of the American Church Mission in
17 company with Japanese officers detailed by military
18 headquarters, and they saw three Japanese soldiers on
19 the premises engaged in looting. They inspected Soochow
20 Academy property and found the principal's and treas-
21 urer's offices thoroughly looted, and all safes and
22 filing cabinets broken open. They found also that one
23 foreign residence had been thoroughly looted, and that
24 the Church had been broken into and vestments looted
25 or strewn about in great disorder. On December 1 they

1 found Japanese soldiers in the treasurer's office in
2 the Yates Academy, trying to break open the safe. On
3 visiting the office the following day they found that
4 the safe had been broken open. They also saw soldiers
5 loading loot from Baptist residences and school build-
6 ings.

7 "According to Bishop Arthur J. Moore, in charge
8 of the missions of the Methodist Episcopal Church, South,
9 in China, who had visited Soochow, where the Mission
10 has large holdings, including Soochow University and
11 Laura Haygood School for Girls, all the buildings had
12 been looted, four buildings had been bombed, and Japa-
13 nese were occupying other buildings, using the new chap-
14 el of Laura Haygood School for Girls as a stable.

15 "HANGCHOW": Reports from missionaries at Hang-
16 chow indicate that on December 26 Japanese soldiers
17 entered three American residences, on which American
18 flags were flying and on which American consular procla-
19 mations and notices issued by the Japanese military
20 police had been posted, and stole money, jewelry, and
21 other articles. On December 27 Japanese soldiers again
22 entered the same residences and stole property.

23
24 JOSEPH C. GREW."

25

1 MR. WILLIAMS: I now offer in evidence IPS
2 document 219P (81) from exhibit 58, which is an
3 excerpt from the aide-memoire of the American
4 Minister in Japan to the Japanese Foreign Minister,
5 dated April 4, 1938.

6 THE PRESIDENT: Mr. Logan.

7 MR. LOGAN: If the Tribunal please, if I
8 recall correctly, the heading of this phase is,
9 "Relations Between the United States, Great Britain
10 and Japan."

11 THE PRESIDENT: A lot of the evidence we
12 have heard during the last two days we would have
13 preferred to hear in the earlier phases. Such evi-
14 dence will have to be covered in the earlier phases
15 when we reach our judgment.

16 MR. LOGAN: But this particular document,
17 your Honor, and many which are to follow refer to
18 conditions in China which were not even mentioned in
19 the prosecution's opening statement on this phase.

20 THE PRESIDENT: Well, they can not be ex-
21 pected to mention everything in the opening statement,
22 Mr. Logan, and unquestionably this does bear on the
23 relations between Japan and America. America was
24 affected by what happened at Nanking as well as the
25 Chinese were. It seems to be both relevant and

1 material, and the objection is overruled.

2 CLERK OF THE COURT: Prosecution's document
3 No. 219P (81) will receive exhibit No. 970.

4 THE PRESIDENT: It is admitted on the
5 usual terms.

6 (Whereupon, the document above
7 mentioned was marked prosecution's exhibit
8 No. 970, and was received in evidence.)

9 MR. L. WILLIAMS: We read prosecution's
10 exhibit No. 970.

11 "THE AMERICAN EMBASSY IN JAPAN TO THE
12 JAPANESE MINISTRY FOR FOREIGN AFFAIRS

13 AIDE-MEMOIRE

14 "Excerpt.

15 "More than three months have elapsed since
16 the occupation of Nanking by Japanese military
17 forces. The areas of hostilities have in that
18 interval moved to substantial distances from that
19 city, and there is at this time no conceivable
20 danger which would of itself make it unwise for
21 Americans to reside there. Notwithstanding these
22 facts the Japanese military authorities continue to
23 impose restrictions which in effect prevent American
24 missionaries and business men, with important inter-
25 ests in Nanking, from returning to that city.

1 "TOKYO, April 4, 1938."

2 We call the Tribunal's attention to exhibit
3 No. 270, already in evidence, which is a record of
4 policy-making conference of the highest Japanese
5 government officials occurring in January 1938. It
6 having already been presented in evidence, of course
7 we do not read it at this time.

8 THE PRESIDENT: Mr. Levin.

9 MR. LEVIN: Mr. President, Mr. Freeman, of
10 our staff, has been ill, been in the hospital, and
11 he represents the defendant mentioned, the defendant
12 whose address was offered in the previous document,
13 and he originally objected to the offer of that
14 evidence and on his behalf I would like to renew that
15 objection at this time.

16 THE PRESIDENT: There is no additional
17 ground of objection, so we can not reverse what we
18 have already decided to do, even if we were dis-
19 posed to review our decision, which we are not.

20 MR. E. WILLIAMS: We now offer in evidence
21 IPS document 219P (53), from exhibit 58. This is an
22 excerpt from aide-memoire of American Ambassador in
23 Japan to Japanese Foreign Minister in Tokyo, dated
24 March 26, 1938.

25 THE PRESIDENT: Admitted on the usual terms.

1 CLERK OF THE COURT: Prosecution's docu-
2 ment 219P (53) will receive exhibit No. 971.

3 (Whereupon, the document above
4 mentioned was marked prosecution's exhibit
5 No. 971, and was received in evidence.)

6 MR. E. WILLIAMS: We will read prosecution
7 exhibit No. 971.

8 "THE AMERICAN EMBASSY IN JAPAN TO THE JAPANESE
9 MINISTRY FOR FOREIGN AFFAIRS

10 AJDE-MEMOIRE

11 "The American Embassy had the honor, in its
12 note No. 892 of March 12, 1938, to invite the
13 serious attention of the Ministry of Foreign Affairs
14 to the continued occupation by Japanese forces of
15 certain American mission property in Shanghai. The
16 occupation of American property by Japanese military
17 forces is not confined to the cases cited in that
18 note but is a condition which obtains extensively in
19 areas in Central China under occupation by Japanese
20 military forces. American missionaries have been
21 denied access to mission property and during their
22 enforced absence nearly all buildings have been looted
23 and damaged and some have been destroyed by fire.

24 "American mission property at the following
25 named places is occupied at the present time by

1 Japanese troops: Changshu, Changchow, Chinkiang,
2 Liuho, Nanking, Nansiang, Quinsan, Shanghai,
3 Soochow, Sungkiang, Yangchow, and Wusih in the
4 Province of Kiangsu, and Huchow and Kashin in
5 Chekiang Province.

6 "Tokyo, March 26, 1938."

7 We now desire, if it please the Tribunal,
8 to offer for identification only IPS document 854,
9 and to have the same marked as an exhibit for iden-
10 tification. This is Volume III, duly authenticated, of
11 a series of bound volumes entitled, "Announcements of
12 the Japanese Government Relating to the China Inci-
13 dent," captured in the Japanese Foreign Ministry in
14 Tokyo. It contains a number of items or articles,
15 each complete within itself, and the prosecution
16 desires to introduce in evidence in this case not all,
17 but some of these items, as separate documents.

18 CLERK OF THE COURT: Prosecution's document
19 No. 854, will receive exhibit No. 972 for identifica-
20 tion only.

21 (Whereupon, the document above
22 mentioned was marked prosecution's exhibit
23 No. 972, for identification.)

24 MR. E. WILLIAMS: We now wish to offer in
25 evidence IPS document 854A, taken from prosecution

1 exhibit 972, which is a statement of the Imperial
2 Government in Japan, dated January 16, 1938.
3

4 THE PRESIDENT: Admitted on the usual terms.
5

6 CLERK OF THE COURT: Prosecution's docu-
7 ment 854A will receive exhibit No. 972A.
8

9 (Whereupon, the document above
10 mentioned was marked prosecution's exhibit
11 No. 972A, and was received in evidence.)
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1 THE PRESIDENT: Mr. Levin.

2 MR. LEVIN: So far as I know, and Mr. Logan,
3 no application has been made to offer these excerpts
4 in evidence.

5 THE PRESIDENT: No application under 6b (1),
6 is that so?

7 MR. E. WILLIAMS: That is correct, your
8 Honor. There is no application under 6b (1) for the
9 reason that each of these documents which we intend
10 to offer is a complete document within itself.

11 THE PRESIDENT: And you have provided the
12 defense with a translation?

13 MR. E. WILLIAMS: Yes, sir.

14 MR. LEVIN: Mr. President, as we understood
15 the rule, no excerpts were to be offered unless a
16 particular application was made as to the particular
17 documents.

18 THE PRESIDENT: What is the point? They
19 seem to have met all substantial requirements.

20 MR. E. WILLIAMS: We read prosecution
21 exhibit No. 972-A:

22 "Announcements of the Japanese Government
23 Relating to the China Incident (Vol. 3). Statement
24 of Imperial Government -- January 16, 1938.

25 "Even after the capture of Nanking, the

1 Japanese Government have till now continued to be
2 patient with a view to affording a final opportun-
3 ity to the Chinese National Government for a re-
4 consideration of their attitude. However, the
5 Chinese Government, without appreciating the true
6 intentions of Japan, blindly persist in their opposi-
7 tion against Japan, with no consideration either
8 internally for the people in their miserable plight
9 or externally for the peace and tranquility of all
10 East Asia. Accordingly, the Japanese Government will
11 cease from henceforward to deal with that Government,
12 and they look forward to the establishment and
13 growth of a new Chinese regime, harmonious co-
14 ordination with which can really be counted upon.
15 With such a regime they will fully cooperate for
16 the adjustment of Sino-Japanese relations and for
17 the building up of a rejuvenated China. Needless
18 to state, this involves no change in the policy
19 adopted by the Japanese Government of respecting
20 the territorial integrity and sovereignty of China
21 as well as the rights and interests of other Powers
22 in China.

23 "Japan's responsibilities for the peace
24 of East Asia are now even heavier than ever before.
25 "It is the fervent hope of the Government

1 that the people will put forth still greater efforts
2 toward the accomplishment of this important task
3 incumbent on the nation."

4 "We offer in evidence IPS document No.
5 854-B from said exhibit 972 for identification.
6 This is a statement from the Foreign Office spokes-
7 man regarding the Allison case, dated January 31,
8 1938.

9 THE PRESIDENT: Major Furness.

10 MR. FURNESS: If the Court please, we
11 object to the introduction of this document on the
12 ground that it deals with the slapping of a Consul
13 by a Japanese soldier and is essentially a trivial
14 matter and no evidence of the commission of any
15 war crime. The same applies to exhibit No. 960
16 formerly introduced.

17 THE PRESIDENT: Taken singly there is
18 nothing in it; taken in conjunction with a number
19 of other things, it may be very important as indicating
20 the general attitude of the Japanese. Face-slapping
21 is a peculiar way of showing extreme contempt.

22 Admitted on the usual terms.

23 CLERK OF THE COURT: Prosecution's document
24 No. 854-B will receive exhibit No. 972-B.

25 ("Whereupon, the document

1 above referred to was marked prosecution's
2 exhibit No. 972-B and was received in
3 evidence.)

4 MR. E. WILLIAMS: If your Honor please,
5 unless required by the Court, we will not read
6 prosecution exhibit No. 972-B, simply concerning
7 ourselves with stating that it is a statement of
8 the Japanese Government which, in effect, admits
9 the occurrence of the slapping of Mr. Allison, an
10 officer of the American Embassy in Tokyo -- or in
11 China.

12 MR. FURNESS: I believe in fairness to
13 the defense it should also be stated that it shows
14 that the facts have not been ascertained but a
15 thorough investigation would be made.

16 THE PRESIDENT: You are not at liberty
17 to take these objections piecemeal. You wait until
18 a decision is given and you come along with another
19 objection. That is not allowed. We are not going
20 to allow it. You get this evidence days in advance
21 and you should know when you come to that lectern
22 for the first time exactly what objection you are
23 going to take. These proceedings will become exceed-
24 ingly disorderly if I allow you to do what you are
25 trying to do now.

1 MR. FURNESS: I am not objecting again
2 to the introduction of the evidence. I am objecting
3 to the statement by the prosecutor as to what it
4 says. I say it is not a fair statement. It shows
5 the settlement of the Incident and the acceptance
6 of the apology.

7 THE PRESIDENT: Proceed, Mr. Williams.
8 You had not finished, of course, when you were inter-
9 rupted.

10 MR. E. WILLIAMS: We now tender in evidence
11 IPS document No. 854-C taken from prosecution exhibit
12 for identification No. 972, which is a communication
13 by the Foreign Minister UGAKI to Avanol, Secretary
14 General of the League of Nations, on September 22,
15 1938.

16 THE PRESIDENT: Admitted on the usual
17 terms.

18 CLERK OF THE COURT: Prosecution's document
19 No. 854-C will receive exhibit No. 972-C.

20 ("Whereupon, the document above
21 referred to was marked prosecution's exhibit
22 No. 972-C and was received in evidence.)

23 MR. E. WILLIAMS: We read prosecution
24 exhibit No. 972-C:

25 "Information Department, Foreign Ministry.

"December 1938

"September 22, 1938

"Mr. Avanol

"Secretary General of the League of Nations

"Geneva

"I acknowledge the receipt of your telegram
of the 19th September 1938, transmitting the in-
vitation based on the first paragraph of Article
17 of the Covenant, and addressed to the Imperial
Government by the Council of the League of Nations.

"The Imperial Government hold to the firm
belief that the method as envisaged by the Covenant
of the League of Nations cannot bring about a just
and adequate solution of the present conflict between
Japan and China and their attitude in this regard
has repeatedly been made clear in the past.

"I have the honor of bringing to your knowledge
that, for this reason, the Imperial Government
regret that they are not able to accept the invita-
tion of the Council.

"K. UGAKI, Minister for
Foreign Affairs of Japan."

MR. E. WILLIAMS: We now offer in evidence

IPS document 854-D from exhibit for identification
No. 972, which is a statement of the Japanese Foreign
Office Spokesman, dated October 12, 1938.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document

No. 854-D will receive exhibit No. 972-D

(Whereupon, the document above referred to was marked prosecution's exhibit No. 972-D and was received in evidence.)

10 MR. E. WILLIAMS: We read prosecution
exhibit No. 972-D:

"STATEMENT OF THE FOREIGN OFFICE SPOKESMAN

"October 12, 1938.

14 "The operations just undertaken in South China by the Imperial Japanese forces are purely military operations for the purpose of intercepting the principal route farms and munitions supply to the Chinese forces and destroying the important points of hostile machinations against Japan.

20 "The policy hitherto pursued by the Japanese
Government of respecting the rights and interests of
third Powers remains unchanged. Although the best
efforts will therefore be exerted for the prevention
of any damage to them in the present operations, it

is earnestly hoped that the third Powers will understand the real intentions of Japan and extend cooperation to the efforts of the Japanese forces and thereby preclude the occurrence of any untoward incidents."

We offer in evidence IPS document No. 854-E from exhibit for identification 972, which is the text of the Japanese Government's reply to the Note of 6 October, 1938 of the Government of the United States concerning American rights and interests in China, which was made public at 10 p.m. on November 18.

THE PRESIDENT: Admitted on the usual terms.
CLERK OF T.E COURT: Prosecution's document No. 854-E will receive exhibit No. 972-E.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 972-E and was received in evidence.)

MR. E. WILLIAMS: Unless the Tribunal so requires I shall not read exhibit No. 972-E, for the reason that it is a somewhat lengthy document which may be epitomized in a very few words.

THE PRESIDENT: Subject to any objection by the defense you may attempt an epitome of it.

MR. SMITH: If the Court please --

1 THE PRESIDENT: Mr. Smith.

2 MR. SMITH: I have no objection to counsel
3 epitomizing and paraphrasing documents in this case,
4 and, I submit, that if prosecutor does not see fit
5 to read a document it is lacking in probative value
6 as to the issues in this case.

7 THE PRESIDENT: Can you tell us, in a few
8 words, what it purports to say?

9 MR. E. WILLIAMS: Yes. The Government of
10 the United States had objected to many regulations
11 in Northern China which interfered with the conduct
12 of the business by the nationals of the United States.
13 This letter, exhibit No. 972-E, is the Japanese
14 answer and it states at great length a fiscal policy
15 adopted by Japan as an explanation as to why there
16 should be interference with American interests in
17 China.

18 THE PRESIDENT: The defense may see fit to
19 refer to it at length later.

20 Captain Brooks.

21 MR. BROOKS: If the Tribunal please, the
22 date here is November 18. There is no year shown
23 and the prosecution has skipped back and forth on
24 these dates and I should like to have them.

25 MR. E. WILLIAMS: 1938.

1 MR. BROOKS: 1938, the prosecution says.

2 The last date I think we had was --

3 THE PRESIDENT: The certificate suggests
4 the year as 1938.

5 MR. BROOKS: I would further like to request from
6 the prosecution the names of the firms or American
7 rights and interests that were so affected as they
8 have alleged throughout these various particulars
9 were being damaged by certain actions taken.

10 MR. E. WILLIAMS: We now offer in evidence
11 IPS document No. 854-G from exhibit No. 972 for
12 identification, which is an address of Prime Minister
13 KONOYE before the Seventy-Third Session of the
14 Imperial Diet on January 22, 1938.

15 THE PRESIDENT: Admitted on the usual terms.

16 CLERK OF THE COURT: Prosecution's document
17 No. 854-G will receive exhibit No. 972-F.

18 (Whereupon, the document above
19 referred to was marked prosecution's exhibit
20 No. 972-F and was received in evidence.)

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1 MR. E. WILLIAMS: "We read prosecution
2 exhibit No. 972-F:

3 "ADDRESS OF THE PRIME MINISTER, PRINCE
4 FUMIMARO KONOYE BEFORE THE 73RD SESSION
5 OF THE IMPERIAL DIET

6 "January 22, 1938.

7 "The New Year is with us amid the storm and
8 stress of the China Affair. Today at this session
9 of the Imperial Diet which faces a momentous crisis
10 of our nation, I have the honour to wish with you
11 a long life to our Sovereign and prosperity and
12 happiness to the Imperial House, before stating
13 to you the views of the Government. I have been
14 moved beyond words by the Imperial Message that
15 was graciously granted at the opening session and
16 by the deep concern shown by His Majesty over the
17 present situation.

18 "It is scarcely necessary for me to say
19 that Japan's immutable national policy aims at
20 building the edifice of permanent peace for East
21 Asia on the unshakable foundation of close co-operation
22 between Japan, Manchoukuo and China, and to con-
23 tribute thereby to the cause of world peace. The
24 adoption some time ago of our determined policy
25 not to deal with the obdurate Kuomintang Government

1 of China, and the exertion of ceaseless efforts
2 towards the cultivation of friendly relations with
3 the Powers, have been both dictated by this policy
4 of the Government. We all rejoice for the sake of
5 world peace that the tripartite Anti-Comintern
6 Agreement between Japan, Germany, and Italy was
7 completed through the participation of Italy last
8 fall.

9 "It is now more than half a year since the
10 commencement of the present conflict. The fields of
11 hostilities have been extended from North China to
12 Central and South China. The valorous and daring
13 operations of the Imperial forces have brought us
14 victory after victory. Nanking, the Chinese Capital,
15 quickly fell into our hands. The situation is de-
16 veloping most favourably for Japan. While this is,
17 of course, due to the August Virtue of our Sovereign,
18 I am profoundly grateful for the loyalty and courage
19 of the officers and men of the Imperial forces at
20 front and for the ardour and enthusiams of all our
21 people at home.

22 "Now the Government look forward to the
23 emergence of a new Chinese regime which may really
24 be counted upon to co-operate with Japan, and with
25 such a regime they intend to adjust the Sino-Japanese

relations and lend their hands in the rehabilitation
1 of China, and in laying firmly thereby the foundation
2 for a permanent peace of East Asia. Needless to say,
3 there will be no change in Japan's policy to respect
4 the sovereignty and territorial integrity of China
5 and the legitimate rights and interests of Third
6 Powers in China.

7 "The mission of Japan as the stabilizing
8 force of East Asia is greater and her obligations
9 have grown heavier than ever. In order to fulfil
10 this mission, and to discharge these obligations
11 of ours, we must certainly be prepared to make
12 hereafter still greater sacrifices than we have
13 made heretofore. But unless we resolve to do this,
14 we only lay in store misfortunes for the future. I
15 believe that to bear such sacrifices is a noble
16 duty that we of the present generation owe to
17 posterity.

18 "It is under a conviction such as this
19 that our Government are striving with all their
20 might to deal with the China Affair and to achieve
21 the end they have in view. And for that they are
22 working for the completion of the plans for the
23 national mobilization both material and spiritual,
24 and the execution of the various necessary measures."

1 "Under this policy, the Government realize the first
2 necessity of replenishing armaments and filling the
3 national treasury, and accordingly, emphasis has
4 been placed on this point in regulating country's
5 economy and finances. As regards the budget for the
6 coming fiscal year, it has been so compiled as to
7 devote as much money and material as possible to
8 the fulfilment of military requirements, and to cur-
9 tail as far as possible the general consumption of
10 the goods and funds having to do with military supplies.

11 "In the field of industry, the basic prin-
12 ciple of the Government will be laid in the increase
13 of our nation's productive power under the one com-
14 prehensive scheme covering Japan, Manchoukuo and
15 China, and efforts are to be exerted toward supplying
16 the articles needed for national defense, promoting
17 all the important industries, and expanding our
18 export trade.

19 "As for our work at the home front, not
20 only everything will be of course done in order
21 to keep our officers and men at front free from
22 all anxieties for those at home, but suitable and
23 effective measures will be taken to provide for
24 the relief of the families of those killed, wounded,
25 or taken ill."

1 "Far distant still is the end of the con-
2 flict. We should expect that it will be a long time
3 before a settlement is reached. Ours is indeed a
4 momentous task unparalleled in history. We shall
5 never succeed in accomplishing the task unless all
6 of us show the dauntless spirit of gladly and courage-
7 ously offering ourselves to our country. Let me assure
8 you that the Government, with patience and persever-
9 ance and a resolute will, expect to reach a settle-
10 ment of the Affair.

11 "In accordance with these views, the neces-
12 sary bills together with the budget are being pre-
13 sented to you, on which I earnestly hope that you,
14 appreciating the intentions of the Government, will
15 give your approval."

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1 MR. E. WILLIAMS: We now tender in evidence
2 I. P. S. document 854-H, from exhibit No. 972, for
3 identification, which is address of Foreign Minister
4 HIROTA at the Seventy-Third Session of the Imperial
5 Diet delivered January 22, 1938.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 854-H will receive exhibit No. 972-G.

9 ("Whereupon, the above-mentioned document
10 was marked prosecution's exhibit No. 972-G and
11 received in evidence.)

12 THE PRESIDENT: Mr. Williams, you may be
13 able to omit many of these paragraphs.

14 MR. E. WILLIAMS: I shall endeavour, if I
15 may, to read the most important portions. I think
16 all of it is important.

17 THE PRESIDENT: We felt, perhaps, that you
18 read more of Prince KONOYE's address than was necessary
19 for our purposes.

20 MR. E. WILLIAMS: Yes.

21 THE PRESIDENT: Mr. Smith.

22 MR. SMITH: If your Honor please, this speech
23 by Mr. HIROTA is a connected whole. It seems almost
24 impossible to take any part of it out and still give
25 a fair impression of what the speech was about. So I

1 object.

2 THE PRESIDENT: For the time being, we trust
3 your judgment, Mr. Williams.

4 MR. E. WILLIAMS: I read prosecution's
5 exhibit No. 972-G.

6 (Reading): "ADDRESS OF MR. KOKI HIROTA,
7 MINISTER FOR FOREIGN AFFAIRS, AT THE SEVENTY-THIRD
8 SESSION OF THE IMPERIAL DIET, DELIVERED ON JANUARY 22,
9 1938.

10 "At the last session of the Diet I had the
11 honour to speak on the policy of the Japanese Govern-
12 ment regarding the China Affair. Today I desire to
13 address you on the subsequent developments which have
14 occurred in the Chinese situation as well as on our
15 foreign relations in general.

16 "The attitude of the Japanese Government
17 towards the present Affair has been clearly set forth
18 in their statements made public from time to time in
19 the past. Japan has no territorial ambitions in China,
20 nor has she any intention of separating North China
21 from the rest of the country. All she wants is that
22 China, taking a broad view of the situation, will
23 collaborate with Japan toward the fulfilment of the
24 ideal of Sino-Japanese co-operation for the common
25 prosperity and well-being of the two countries."

1 "Accordingly, even after the outbreak of the present
2 Affair, we eagerly looked forward to joining forces
3 with China for the purpose of securing peace in East
4 Asia as soon as the Nationalist Government should have
5 discarded their policy of opposition to Japan and
6 Manchoukuo and evinced a sincere desire to work to-
7 gether for this idea of Japan. However, the Nationalist
8 Government failed to understand our true intentions,
9 and they were caught, so to speak, in the trap set
10 by themselves, being bound by their commitments to
11 the anti-Japanism that they had fostered for such long
12 years. Unable to act wisely and well with a calm
13 judgment, but relying upon third Powers, or allying
14 themselves with Communists, they are even now calling
15 for a prolonged resistance, regardless of the plight
16 of the 400 million people of China whom they have
17 plunged into the depth of suffering and misery. Now
18 the heroic operations of our loyal and valiant forces
19 in the north and in the south, have forced the National-
20 ist Government to abandon Nanking, their capital, and
21 to flee far up the Yangtze River. Still unrepentant,
22 they persist in their desperate opposition. It is a
23 most lamentable thing for the sake of East Asia as a
24 whole as well as for the people of China.
25

"Some time ago when the Japanese Government

1 received a proffer of good offices by the German
2 Government to act as an intermediary for bringing
3 about direct negotiations between Japan and China,
4 they proposed, with a view to affording the Nationalist
5 Government a last opportunity for reconsideration,
6 the following four points as the basic conditions for
7 the solution of the Affair:

8 "1. China to abandon her pro-Communist and
9 anti-Japanese and anti-Manchoukuo policies to collaborate
10 with Japan and Manchoukuo in their anti-Comintern
11 policy.

12 "2. Establishment of demilitarized zones
13 in the necessary localities, and of a special regime
14 for the said localities.

15 "3. Conclusion of an economic agreement
16 between Japan, China and Manchoukuo.

17 "4. China to pay Japan the necessary indemnities.

18 "These items summarized the minimum requirements which were considered absolutely indispensable
19 by the Japanese Government. It was my earnest hope
20 that the Nationalist Government would sue for peace
21 on the basis of these fundamental conditions. However,
22 that Government, blind to the larger interests of East
23 Asia, and ignoring both our magnanimity and Germany's

friendly intention, exhibited no readiness to ask
1 frankly for peace, but only sought to delay the matter
2 and ultimately failed to send a reply that could be
3 regarded in any way as sincere. The Nationalist
4 Government having thus wilfully thrown away the last
5 chance placed at their disposal by the Japanese
6 Government, it became clear that there would be no
7 hope of ever arriving at a solution by waiting in-
8 definitely for any reconsideration on the part of the
9 Nationalist Government. It is because of these circum-
10 stances that the Japanese Government issued on the
11 16th of this month the statement that they would from
12 thence forward cease to deal with the Nationalist
13 Government. As is made plain in that statement our
14 Government now look forward to the establishment and
15 the growth of a new Chinese regime capable of genuine
16 cooperation with Japan, which it is their intention
17 to assist in the building up of a new and rehabilitated
18 China. I am fully convinced that this is the only
19 way of realizing our ideal of securing the stability
20 of East Asia through Sino-Japanese co-operation.

21 "I desire to avail myself of this occasion
22 to say that in Europe and America there are some who
23 are apt to entertain misgivings regarding Japan's
24 intentions as though she were trying to close the

Chinese door, and expel the interests of the Powers from China. Let me state explicitly that not only will Japan respect to the fullest extent the rights and interests of the Powers in the occupied areas, but she is prepared, for the purpose of promoting the welfare of the Chinese people, to leave the door wide open to all Powers and to welcome their cultural and economic cooperation there. It is earnestly to be hoped that the Powers, by recognizing the new conditions prevailing in China, and by appreciating the propriety of such Japanese demands for necessary and national adjustments as have been submitted, or may be submitted hereafter, in order to meet those conditions, will co-operate for the establishment of a new order in the Far East."

With the Court's permission I shall not read the balance of this document because I believe that the gist of it is contained within the portion that has been read.

I next offer in evidence I. P. S. document No. 854-J --there is an omission of one document -- I -- we are omitting I -- which is taken from exhibit No. 972 for identification, and which is a statement of Premier KONOYE dated December 22, 1938.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document
1 No. 854-J will receive exhibit No. 972-H.

2 (Whereupon, the above-mentioned document
3 was marked prosecution's exhibit No. 972-H and
4 received in evidence.)

5 MR. E. WILLIAMS: We read prosecution's
6 exhibit No. 972-H:

7 (Reading): "STATEMENT BY THE PRIME MINISTER,
8 PRINCE FUMIMARO KONOYE.

9 "December 22, 1938.

10 "The Japanese Government are resolved, as
11 has been clearly set forth in their two previous
12 statements issued this year, to carry on the military
13 operations for the complete extermination of the anti-
14 Japanese Kuomintang Government, and at the same time
15 to proceed with the work of establishing a new order
16 in East Asia together with those far-sighted Chinese
17 who share in our ideals and aspirations.

18 "The spirit of renaissance is now sweeping
19 over all parts of China and enthusiasm for reconstruction
20 is mounting ever higher. The Japanese Government desire
21 to make public their basic policy for adjusting the
22 relations between Japan and China, in order that their
23 intentions may be thoroughly understood both at home
24 and abroad."

1 "Japan, China, and Manchoukuo will be united
2 by the common aim of establishing the new order in
3 East Asia and of realizing a relationship of
4 neighbourly amity, common defence against Communism,
5 and economic cooperation. For that purpose it is
6 necessary first of all that China should cast aside
7 all narrow and prejudiced views belonging to the past
8 and do away with the folly of anti-Japanism, and
9 resentment regarding Manchoukuo. In other words,
10 Japan frankly desires China to enter of her own
11 will into complete diplomatic relations with Manchoukuo.

12 "The existence of the Comintern influence in
13 East Asia can not be tolerated. Japan, therefore,
14 considers it an essential condition of the adjustment
15 of the Sino-Japanese relations that there should be con-
16 cluded an anti-Comintern agreement between the two
17 countries in consonance with the spirit of the anti-
18 Comintern Agreement between Japan, Germany and Italy.
19 And in order to ensure the full accomplishment of her
20 purpose, Japan demands, in view of the actual circum-
21 stances prevailing in China, that Japanese troops be
22 stationed, as an anti-Communist measure, at specified
23 points during the time the said agreement is in force,
24 and also that the Inner Mongolian region be designated
25 as a special anti-Communist area."

1 "As regards economic relations between the
2 two countries, Japan does not intend to exercise econo-
3 mic monopoly in China, nor does she intend to demand
4 of China to limit the interests of those third Powers,
5 who grasp the meaning of the new East Asia and are
6 willing to act accordingly. Japan only seeks to
7 render effective the cooperation and collaboration
8 between the two countries. That is to say, Japan
9 demands that China, in accordance with the principle
10 of equality between the two countries, should recognize
11 the freedom of residence and trade on the part of
12 Japanese subjects in the interior of China, with a
13 view to promoting the economic interests of both
14 peoples; and that, in the light of the historical and
15 economic relations between the two nations, China
16 should extend to Japan facilities for the development
17 of China's natural resources, especially in the regions
18 of North China and Inner Mongolia.

19 "The above gives the general lines of what
20 Japan demands of China. If the true object of Japan
21 in conducting the present vast military campaign be
22 fully understood, it will be plain that what she seeks
23 is neither territory nor indemnity for the costs of
24 military operations. Japan demands only the minimum
25 guarantee needed for the execution by China of her

1 function as a participant in the establishment of
2 the new order.

3 "Japan not only respects the sovereignty of
4 China, but she is prepared to give positive consider-
5 ation to the questions of the abolition of extra-
6 territoriality and of the rendition of concessions
7 and settlements -- matters which are necessary for
8 the full independence of China."

9 THE PRESIDENT: We will recess for fifteen
10 minutes.

11 ("Whereupon, at 1045, a recess was
12 taken until 1100, after which the proceedings
13 were resumed as follows:)

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MARSHAL OF THE COURT: The Tribunal is now resumed.

THE PRESIDENT: Mr. Hardin.

Mr. Levin.

MR. LEVIN: Mr. President, I said something this morning about cumulative documents or cumulative evidence, and I am just advised by Dr. KIYOSÉ that the document which has just been read is the identical exhibit of 268. Exhibit 268 consisted of three parts, and the third part was the part which was now read. I simply call the attention of the Court to this matter so that there should be no repetition of the reading of documents or the offering of proof a second time.

THE PRESIDENT: Has it been read twice?

MR. HARDIN: Mr. President, it was read from some other source. This we got from the Foreign Office -- this identical original; and this original was not processed another time, but the same thing from some other source may have been and, in that way, escaped my attention.

THE PRESIDENT: A certain amount of tying in is desirable but not to the extent of reading a lengthy document. The contents of this document seem familiar to some of us.

1 MR. HARDIN: I am not questioning the fact
2 that it may have been read from another source. But,
3 perusing thousands of documents, your Honor, it is
4 likely to happen. I am sorry. The processing --

5 THE PRESIDENT: Well, we have heard enough
6 about it, Mr. Hardin.

7 MR. HARDIN: We offer in evidence IPS
8 document 219P (42) from exhibit 58 for identification.
9 This is an excerpt from a radio speech of Prime
10 Minister KONOYE dated at Tokyo November 3, 1938.

11 My apology. I withdraw this. It is out,
12 and I do not offer it.

13 I offer IPS document 219P (43) from exhibit
14 58 for identification, which is an excerpt from a
15 statement of Foreign Minister ARITA to Ambassador
16 Grew at Tokyo, November 18, '38.

17 THE PRESIDENT: Mr. Levin.

18 MR. LEVIN: I desire to call the attention
19 of the Tribunal to the fact that this exhibit is
20 already in evidence, exhibit No. 972-E. It is on
21 page 4, and it is the second paragraph on that page.

22 THE PRESIDENT: What have you to say to that,
23 Mr. Hardin?

24 MR. HARDIN: We withdraw it if that is true.
25 This is only a short excerpt.

1 THE PRESIDENT: We have not read it. It
2 may or may not be true.

3 MR. HARDIN: We omit the next one.

4 We offer in evidence IPS document 219P (82)
5 from exhibit 58. This is an excerpt from an oral
6 statement of Ambassador Grew to Prime Minister KONOYE,
7 dated October 3, 1938.

8 THE PRESIDENT: Mr. Hardin, the position is
9 this: The document last admitted is certainly
10 identical with a part of an earlier exhibit which has
11 not been read. It is, I understand, a different
12 translation.

13 MR. HARDIN: That is 219P (54), your Honor?

14 THE PRESIDENT: 272-E contains a paragraph
15 which is similar in substance to exhibit 973.

16 MR. HARDIN: 973, I believe, was omitted,
17 your Honor.

18 THE PRESIDENT: It is still before us. That
19 is all I know. I suppose you can omit this 973 with-
20 out damaging your case.

21 MR. HARDIN: I was only omitting it because,
22 as I understand, it is a duplication.

23 THE PRESIDENT: The last excerpt tendered
24 is admitted on the usual terms.

25 CLFRK OF THE COURT: Prosecution's document

1 No. 219P (82) will be given exhibit No. 973.

2 (Whereupon, the document above
3 mentioned was marked prosecution's exhibit
4 No. 973 and received in evidence.)

5 MR. HARDIN: Now, in the interest of time,
6 your Honor, if it is permissible, I will read only
7 the first two and the fifth paragraphs, offering it
8 all in evidence.

9 I read prosecution exhibit No. 973:
10 "ORAL STATEMENT BY THE AMERICAN AMBASSADOR IN
11 JAPAN (GRE) TO THE JAPANESE PRIME MINISTER
12 AND MINISTER FOR FOREIGN AFFAIRS (PRINCE KONOYE)
13 OCTOBER 3, 1938

14 "Excerpts

15 "I have had many conferences on this general
16 subject with former Ministers, especially Mr. HIROTA
17 and General UGAKI, who have repeatedly given me pre-
18 cise and definite assurances that American interests
19 in China would be respected and that the principle of
20 the Open Door and equal opportunity would be steadily
21 maintained.

22 "The American Government to its regret is con-
23 strained to observe that violation of American rights
24 and interests, including violation of the principle of
25 the Open Door, has nevertheless persisted.

1 "It is hardly necessary to state that there
2 can be no Open Door in China so long as the ultimate
3 authority to regulate, tax, or prohibit trade is ex-
4 ercised, directly or indirectly, by the authorities of
5 one 'foreign' power in furtherance of the interests of
6 that power."

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1 Offering in evidence IPS document 219P (55)
2 from identification exhibit 58, which is an excerpt
3 from American Embassy in Japan to Foreign Minister,
4 May 30, 1938.

5 THE PRESIDENT: It is out of its chrono-
6 logical order. Why is that, Mr. Hardin?

7 MR. HARDIN: It is out of chronological
8 order?

9 THE PRESIDENT: It may not be. It appears
10 to be, though. "May, 1938." That is all right.
11 The 1st of "August, 1937." It is a few months out
12 of order: The difference between May and October.

13 MR. HARDIN: Yes, sir.

14 THE PRESIDENT: Admitted on the usual terms.

15 CLERK OF THE COURT: Prosecution's document
16 No. 219P (55) will receive exhibit No. 974.

17 (Whereupon, the document above
18 mentioned was marked prosecution's exhibit
19 No. 974 and received in evidence.)

20 MR. HARDIN: We read prosecution exhibit No.

21 974:

22 "THE AMERICAN EMBASSY IN JAPAN TO THE
23 JAPANESE MINISTRY FOR FOREIGN AFFAIRS

24 "Excerpts

25 "No. 942

1 "The American Embassy presents its compli-
2 ments to the Japanese Ministry of Foreign Affairs
3 and has the honor to refer to the damage to American
4 mission property at Nantungchow on August 17, 1937,
5 as a result of Japanese military operations.

6 "According to information received from
7 the American Consul-General at Shanghai, Mr. C. A.
8 Burch of the United Christian Missionary Society,
9 who proceeded to Nantungchow to make an investigation,
10 stated in a sworn statement that, during an air raid
11 which occurred at ten-thirty on the morning of August
12 17, 1937, four two-winged hydroaeroplanes described
13 by witnesses as bearing the 'Red Sun' insignia on
14 the wings flew low over the mission property and
15 dropped a number of bombs, one of which was be-
16 lieved to be incendiary, on the hospital and other
17 mission buildings causing extensive damage.

18 "TOKYO, May 30, 1938."

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1 We offer in evidence IPS document No.
2 219P (56) from exhibit 58 for identification. This
3 is an excerpt from the statement of the American
4 Embassy in Japan to the Japanese Minister for
5 Foreign Affairs, dated May 31, 1938.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 219P (56) will receive exhibit No. 975.

9 (Whereupon, the document above
10 mentioned was marked prosecution's exhibit
11 No. 975 and received in evidence.)

12 MR. HARDIN: We read prosecution's exhibit
13 No. 975:

14 "THE AMERICAN EMBASSY IN JAPAN TO THE JAPANESE MINIS-
15 TER FOR FOREIGN AFFAIRS

16 "Excerpts.

17 "No. 946

18 "The American Embassy presents its compli-
19 ments to the Japanese Ministry of Foreign Affairs and
20 has the honor to state that the following message
21 from Haichow has been received through the American
22 Consul General at Shanghai:

23 "'American Presbyterian Chapel only a few
24 feet from American Presbyterian Hospital and
25 American Presbyterian Women's Bible School, in

1 same yard with our residence, were bombed on
2 May 24th by Japanese planes causing great
3 damage; residences only very slightly damaged.
4 Chapel and school greatly damaged, in addition
5 our chapel(s) inside the city and at Shaiho
6 were bombed and greatly damaged. American
7 flags were prominently displayed at each
8 building.'

9 ...
10 "The American Consul-General at Shanghai re-
11 ports that a second message has been received stat-
12 ing that the Mission was again bombed on May 28,
13 one bomb landing less than thirty-five yards from
14 Mr. McLaughlin's residence, but that they were, how-
15 ever, fortunately unharmed.
16 "TOKYO, May 31, 1938."

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1 We offer in evidence IPS document No.
2 219P (57) from exhibit 58 for identification. This
3 is an excerpt from statement of American Embassy in
4 Japan to Foreign Minister, June 10, 1938.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 219P (57) will receive exhibit No. 976.

8 (Whereupon, the document above
9 mentioned was marked prosecution's exhibit
10 No. 976 and received in evidence.)

11 MR. HARDIN: Reading prosecution exhibit
12 No. 976:

13 "THE AMERICAN EMBASSY IN JAPAN TO THE
14 JAPANESE MINISTRY FOR FOREIGN AFFAIRS

15 "Excerpt.

16 "No. 955

17 "The American Embassy presents its compli-
18 ments to the Ministry of Foreign Affairs and has the
19 honor to state that according to information re-
20 ceived through the American Consul-General at Shang-
21 hai, the nurses' home and two residences on the com-
22 pound of the Soochow Hospital, property belonging to
23 the American Methodist Episcopal Mission South, were
24 occupied by Japanese troops on May 30 last. The
25 American Consul-General at Shanghai has made repre-

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1 sentations to his Japanese colleague concerning this
2 report of the recent occupation of additional Ameri-
3 can property.

4 " TOKYO, June 10, 1938."

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1 If your Honor please, we wish to offer for
2 identification only -- my apology; that is not neces-
3 sary. I omit that.

4 Now we offer in evidence IPS document
5 1634-I taken from prosecution exhibit for identifi-
6 cation -- that is taken from the Foreign Office, which
7 is an outline of the State policy by the War and Navy
8 Ministers, dated June 30, 1936. It is duly identi-
9 fied as a separate document.

10 THE PRESIDENT: Admitted on the usual terms.

11 CLERK OF THE COURT: Prosecution's document
12 No. 1634-I will receive exhibit No. 977.

13 (Whereupon, the document above
14 mentioned was marked prosecution's exhibit
15 No. 977 and received in evidence.)

16 MR. HARDIN: (Reading)

17 "The Basis of National Policy

18 "June 30, 1936 (SHOWA 11)

19 "The War and Navy Ministries

20 "I. The fundamentals of administrating state
21 affairs lie in strengthening our national foundation
22 at home and bringing about the prosperity of our na-
23 tion abroad so that, on the basis of the relations be-
24 tween sovereign and subject, our Empire may secure

the peace of the Orient and contribute to the welfare of mankind as the real stabilizing power in East ASIA, thereby realizing the ideal underlying the foundation of our nation. In view of the internal and external situation of the Empire, her fundamental policies must consist in advancing and developing in the Southern Seas as well as obtaining a firm position in the East Oriental continent for the stabilization of our national defense.

"These fundamental policies are as follows:

"(1) We must strive to correct the great Powers' aggressive policies and share happiness and favor with others according to a real principle of give and take; that is to say, our guiding principle must be to realize the spirit of the 'Imperial Way' (KODO) by a consistent policy of overseas expansion.

"(2) We must complete our national defense armament in order to maintain peace and tranquillity, to safeguard our prosperity and to secure the position of the Empire as the stabilizing power in East ASIA in fact as well as in name.

"(3) We expect the sound development of MANCHUKUO and hope by accomplishing this to

1 stabilize Japan-Manchukuo national defense;
2 thus in order to promote our economic de-
3 velopment, we intend to get rid of the men-
4 ace of the U.S.S.R., while preparing against
5 BRITAIN and the U.S. and bringing about
6 close collaboration between JAPAN, MANCHU-
7 KUO and CHINA. This is the basis of our
8 continental policy in the execution of which
9 we must also pay due attention to friendly
10 relations with other powers.

11 "(4) We plan to promote our racial and
12 economic development in the Southern Seas,
13 especially in the Outer Southern Seas, and
14 without rousing other powers to action, we
15 must attempt to extend our strength by mo-
16 derate and peaceful measures. Thus with
17 the establishment of MANCHUKUO in addition
18 to the above, we may expect the full devel-
19 opment of our national resources and the
20 completion of our national defense.

21 "II. On the basis of the above fundamental
22 national policies we expect to reform our government
23 system so as to make it suitable for the present ex-
24 ternal and internal situation, and to unify political,
25 financial and economic policies both within and with-

out the country. The essential points are as follows:

"(1) Defensive armament preparations.

"a) The aim of our military preparations is to enable us to cope with any force which the U.S.S.R. can mobilize in the Far East. Especially, our force in MANCHUKUO and KOREA must be strengthened so that we may smash her Far Eastern force at one blow from the beginning.

"b) As for the navy, we must complete its armament sufficiently to maintain the command of the Western Pacific against the U.S. Navy.

"(2) The first principle of our diplomatic policy lies in the smooth execution of our fundamental state policies as well as synthesizing and renewing them. The military will give under-cover assistance without appearing on the surface so that the activities of our diplomatic organs may progress advantageously and smoothly.

"(3) We must reform and improve our administrative system and establish an economic and financial policy by means of every facility available so as to strengthen our defensive strength and to promote our economic development

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1 vigorously. For this purpose, we will take suit-
2 able steps concerning the following matters.
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4 "a) We should direct and unify internal
5 public opinion and make the resolution of
6 the people steady to tide over the present
7 emergency.

8 "b) We should appropriately improve our
9 political and economic systems in order to
10 develop the important trade and industries
11 which are necessary for the execution of
12 national policy and national defense.

13 "c) We should take appropriate measures
14 to stabilize the life of the people, promote
15 their physical strength and lead their
16 thoughts into sound channels.

17 "d) We should make appropriate arrange-
18 ments for the rapid development of the avia-
19 tion and shipping business.

20 "e) We should promote the establishment
21 of a self-supporting and self-sufficient
22 policy for resources and materials important
23 for national defense and industry.

24 "f) We should reform our diplomatic or-
25 gans and also draw up a system of information
and propaganda in order to make our diplo-

1 matic function and the spread of our culture
2 in the world more active."

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1 MR. HARDIN: We next offer in evidence IPF
2 document 1634J, which is a record of Conference with
3 the Foreign, War, Navy, and Finance Ministers, June
4 30, 1936, entitled "Matters Pertaining to the Out-
5 line of State Policy."

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 1634J will receive exhibit No. 978.

9 (Whereupon, the document above re-
10 ferred to was marked prosecution's exhibit No.
11 978 and received in evidence.)

12 MR. HARDIN: If it please your Honors, this
13 is, as stated, the record of the meeting on the same
14 day as exhibit 977, between the War and Navy Minis-
15 ters and the same two ministers with the Premier and
16 the Finance and Foreign Ministers are in this one, and
17 we offer it in evidence without reading, with per-
18 mission of the Tribunal.

19 THE PRESIDENT: Major Furness:

20 MR. FURNESS: If the Court please, I am not
21 objecting to the admission of this document. I do
22 feel, however, that it does not reiterate, does not
23 re-state, what is in the preceding exhibit. It shows
24 requests for clarification and some disagreement on
25 the part of the Foreign Minister, and I think therefore

1 it should be read.

2 MR. HARDIN: I have no objection, your Honors,
3 to reading it, thus saving time.

4 THE PRESIDENT: Well, we don't want it read,
5 Mr. Hardin.

6 MR. HARDIN: We next offer in evidence, if
7 it please the Tribunal, IPS document No. 1634K, which
8 is a record of a conference of Prime Minister, War,
9 Navy, Finance, and Foreign Ministers, August 11, 1936,
10 and is entitled "Fundamentals of our National Policy."

11 THE PRESIDENT: Admitted on the usual terms.

12 CLERK OF THE COURT: Prosecution's document
13 No. 1634K will receive exhibit No. 979.

14 (Whereupon, the document above re-
15 ferred to was marked prosecution's exhibit No.
16 979 and received in evidence.)

17 MR. HARDIN: (Reading:) "Fundamentals of
18 our National Policy.

19 "I. The fundamental principle of administering the
20 state based on righteousness lies in realizing the
21 ideal of our national foundation by strengthening the
22 foundation of our country internally and prospering
23 externally, thereby making the Japanese Empire develop
24 into the stabilization Power, nominal and virtual,
25 in the East Asia, secure peace in the Orient and

1 contribute to the peace and welfare of mankind through-
2 out the world. In view of the situation of the Em-
3 pire, both home and abroad, to establish the funda-
4 mental national policy consists in securing a steady
5 footing of our empire in the Eastern Continent as
6 well as developing in the South Seas, under the joint
7 efforts of diplomatic skill and national defense.

8 The general basic principles are as follows:

9 "(1) To exclude the Military Rule Policy of the
10 Powers and follow our policy to share mutual welfare
11 by participating in co-existence and co-prosperity
12 principle is the only way of realizing the ideal of
13 our Imperial Rule of Justice. It should, therefore,
14 be the immutable leading spirit in all times in re-
15 lation to our overseas development.

16 "(2) In order to secure the stability of our
17 Empire and to safeguard its development so as to ac-
18 quire the position of the real stabilization Power
19 in the East Asia, nominally and virtually, we are to
20 complete our defensive armament.

22 "(3) We should strive to eradicate the Russian
23 menace on the North, in order to realize a stead-
24 fast development of Manchuria, and for the solid de-
25 fense of both Japan and Manchuria. We should also be
prepared for Britain and America, attempting at the

1 same time an economic development by the close co-
2 operation of Japan, China and Manchuria. The above
3 should be our fundamental policy for the Continent.
4 For the achievement of such an object we should al-
5 ways be careful to hold most amicable relations with
6 the Powers.

7 "(4) For the furtherance of our plan to achieve
8 the social and economic development of our Empire
9 toward the South Seas, especially on the Outer South
10 Sea Islands Area, we should take a gradual and peace-
11 ful measure, always avoiding to stimulate other nations,
12 and try to fulfill our national strength correlative
13 with the completion of Manchuria.

14 "II Making the above fundamental principle the
15 pivotal point of our national policy, we expect
16 thereby to unify all our policies, internal and ex-
17 ternal, and generally innovate the administra-
18 tion in accordance with the present situation of the
19 Empire. The outline of our new policy is as follows:

20 "(1) The fulfillment of the National Defense
21 Armament.

22 "(a) As to the Army armaments, we should aim
23 to counteract all the military forces that Russia can
24 furnish to employ in the Far East; and, especially,

1 so as to enable us to strike a hit at the very
2 out-set of the war upon the Russians, we should com-
3 plete our military force in Korea and Manchuria.

4 "(b) As to the Naval Armaments, we should at-
5 tempt to fulfill its strength to such an extent as
6 to be sufficient for securing the command of the sea
7 on the Western Pacific counter to the American Navy.

8 "(2) Our diplomatic policy is solely to make
9 it the first principle to try to prosecute the nat-
10 ional scheme in smooth and amicable manner, and
11 thereby to conduct an innovation and improvement in
12 general. The military authorities on their part are
13 required to assist the activities of the diplomatic
14 organ from within in order to have it act fully and
15 advantageously, evading all the time to act from
16 without as far as possible.

17 "(3) In order to renovate and improve political
18 and administrative organ, to establish financial and
19 economic policies, and to manage other plans and
20 schemes, according to our fundamental principle, the
21 following measures should be taken properly:

22 "(a) Lead and unify public opinion at home, and
23 strengthen the will of the people to tide over the
24 extraordinary emergency of our country.

25 "(b) In order to advance and further our trade

1 and industry essential to the prosecution of the
2 national policy, an appropriate improvement should
3 be introduced to the administrative and economic
4 organs.

5 "(c) An adequate measure should be taken concern-
6 ing the stabilization of the people's livelihood, the
7 development of their physical strength, and fostering
8 sound and healthy mind and idea.

9 "(d) A suitable measure should be taken in
10 order to make a drastic progress in air as well as
11 sea transportation.

12 "(e) It is required to accelerate the estab-
13 lishment of a self-supporting and self-sufficient
14 policy for the important resources and materials
15 essential to national defense and industry.

16 "(f) By innovating diplomatic organs, as well
17 as completing information and publicity systems we
18 should strive to quicken our diplomatic function,
19 and to enhance the national culture abroad."

20 We offer in evidence IPS document 219P (58)
21 from exhibit 58, which is an excerpt from a communi-
22 cation of Ambassador Grew to Ambassador UGAKI, Tokyo,
23 June 28, 1938.

24 THE PRESIDENT: Admitted on the usual terms.
25 CLERK OF THE COURT: Prosecution's document

1 No. 219P (58) will receive exhibit No. 980.

2 (Whereupon, the document above re-
3 ferred to was marked prosecution's exhibit No.
4 980 and received in evidence.)

5 MR. HARDIN: We read prosecution's exhibit

6 No. 980:

7 "THE AMERICAN AMBASSADOR IN JAPAN (GREW) TO THE
8 JAPANESE MINISTER FOR FOREIGN AFFAIRS (UGAKI)

9 "Excerpt. TOKYO, June 28, 1938.

10 "No. 975.

11 "EXCELLENCY: Acting under instructions from my
12 Government I have the honor formally to protest an
13 unwarranted attack on June 15, 1938, by Japanese
14 airplanes upon the American Southern Baptist Mission
15 at Pingtu, Shantung, which resulted in placing the
16 lives of two hundred school children and seven Ameri-
17 can missionaries in grave jeopardy and in wounding
18 other noncombatants, and which inflicted extensive
19 damage upon American property. JOSEPH C. GREW."

20 We offer in evidence IPS document 219P (59)
21 from exhibit 58, which is an excerpt of communication
22 from the American Ambassador in Japan (Grew) to the
23 Japanese Minister for Foreign Affairs (UGAKI), Tokyo,
24 August 16, 1938.

25 THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document
1 No. 219P (59) will receive exhibit No. 981.

2 (Whereupon, the document above re-
3 ferred to was marked prosecution's exhibit No.
4 981 and received in evidence.)

5 MR. HARDIN: We read prosecution's exhibit
6 No. 981:

7 "THE AMERICAN AMBASSADOR IN JAPAN (GREW) TO THE
8 JAPANESE MINISTER FOR FOREIGN AFFAIRS (UGAKI).

9 "Excerpt. TOKYO, August 16, 1938.

10 "No. 1026.

11 "I am directed to make comprehensive and
12 emphatic representations to the appropriate Japanese
13 authorities through Your Excellency, recalling suc-
14 cinctly the essential facts and circumstances of the
15 attacks of those American mission properties at
16 Wuchang, and to point out that notwithstanding the
17 fact that the mission properties have been marked on
18 maps delivered by the American Consul-General at
19 Shanghai to the Japanese authorities the mission
20 properties under reference have been bombed no less
21 than seven times since July 6 last, and particularly
22 to emphasize the fact that in the course of these
23 attacks American lives have been directly imperilled.

24 JOSEPH C. GREW."

1 MR. HARDIN: Offering in evidence IPS document
2 No. 219P (60), from exhibit 58 for identification, which
3 is an excerpt from press release issued by the State
4 Department, Washington, August 26, 1938.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 219P (60) will receive exhibit No. 982.

8 (Whereupon, the document above referred
9 to was marked prosecution's exhibit No. 982 and
10 received in evidence.)

11 MR. HARDIN: We read prosecution's document
12 No. 982:

13 "Press Release Issued by the Department of
14 State on August 26, 1938.

15 "Excerpt.

16 "EXCELLENCY: Acting under instructions, I
17 have the honor on behalf of my Government to protest
18 to Your Excellency against the unwarranted attack on
19 August 24, 1938, near Macao, by Japanese airplanes
20 upon a commercial airplane operated by the China National
21 Aviation Corporation resulting in the total destruction
22 of the commercial airplane, the loss of the lives of
23 a number of noncombatant passengers, and the endang-
24 ering of the life of the American pilot.

25 Joseph C. Grew."

1 Next we offer in evidence IPS document No.
2 219P (61), from exhibit 58 for identification, which
3 is an excerpt from a communication from Ambassador
4 Grew to Minister ARITA, dated October 31, 1938.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 219P (61) will receive exhibit No. 983.

8 (Whereupon, the document above referred
9 to was marked prosecution's exhibit No. 3 and
10 received in evidence.)

11 MR. HARDIN: We read prosecution's exhibit
12 No. 983:

13 "The American Ambassador in Japan (Grew) to
14 The Japanese Minister for Foreign Affairs (ARITA).

15 "Excerpt.

16 "No. 1105 Tokyo, October 31, 1938.

17 "EXCELLENCY, I have the honor to inform Your
18 Excellency that information has reached me that property
19 belonging to the Lutheran Brethren Mission at Tungpeh,
20 Honan, was bombed by Japanese airplanes on October 24,
21 1938, which action resulted in the death of the
22 American national, Phoebe Nyhus, aged three years, and
23 in the wounding of two other American nationals, her
24 mother, Mrs. Arthur E. Nyhus, and her sister, Ruth
25 Nyhus, aged eight years. The building which was the

1 object of the attack was destroyed.

2 Joseph C. Grew."

3 We offer in evidence IPS document No. 219P
4 (83), from exhibit 58 for identification, which is an
5 excerpt from a statement of Ambassador Grew to Minister
6 ARITA, Tokyo, November 7, 1938.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 219P (83) will receive exhibit No. 984.

10 (Whereupon, the document above referred
11 to was marked prosecution's exhibit No. 984 and
12 received in evidence.)

13 MR. HARDIN: We read prosecution's exhibit
14 No. 984:

15 "The American Ambassador in Japan (Grew) to
16 The Japanese Minister for Foreign Affairs (ARITA).

17 "Excerpt.

18 "No. 1111 Tokyo, November 7, 1938.

19 "YOUR EXCELLENCE: In the note No. 1076 of
20 October 6, 1938, which I had the honor to address
21 to Your Excellency's distinguished predecessor, men-
22 tion was made, among other points, of the exclusion
23 from the lower reaches of the Yangtze River of American
24 and other non-Japanese shipping although Japanese
25 merchant vessels are carrying Japanese merchandise

1 between Shanghai and Nanking, to the exclusion of
2 merchandise of other countries. I pointed out to His
3 Excellency Prince KONOYE that thi. treatment of American
4 shipping and commerce, as well as the treatment by
5 Japanese authorities of other American interests in
6 China, not only violates American rights but is in
7 direct controvection of assurances repeatedly affirmed
8 by the Japanese Government to the American Government
9 that the principle of the open door and equal oportunity
10 in China would be supported by the Japanese
11 Government."

12 Offering in evidence IPS document No. 219P
13 (62), from exhibit 58 for identification, which is an
14 excerpt from a statement of Ambassador Grew to Minister
15 ARITA, Tokyo, March 30, 1939.

16 THE PRESIDENT: Admitted on the usual terms.

17 CLERK OF THE COURT: Prosecution's document
18 No. 219P (62) will receive exhibit No. 985.

19 ("hereupon, the document above referred
20 to was marked prosecution's exhibit No. 985 and
21 received in evidence.)

22 MR. HARDIN: (Reading)

23 "The American Ambassador in Japan (Grew)
24 to the Japanese Minister for Foreign Affairs (ARITA).
25 "Excerpts.

"No. 1230 Tokyo, March 30, 1939.

2 "EXCELENCY: Acting under instructions, I
3 have the honor to inform Your Excellency that my Govern-
4 ment formally and emphatically protests the continued
5 disregard by the Japanese military forces of American
6 lives and property in China.

7 "In this connection I am directed to invite
8 the attention of the Japanese Government to the ever
9 lengthening list of instances in which, as a result
10 of air raids by the Japanese forces, American properties,
11 although clearly marked and the location thereof pre-
12 viously reported with accompanying maps to the Japanese
13 authorities, have been damaged and in some cases des-
14 troyed.

15 "An outstanding example of the instances to
16 which my Government refers is the recent bombing of
17 the American Lutheran Mission at Tungpeh which resulted
18 in death or grave injury to certain members of the
19 Nyhus family. Twenty-eight of the attacks upon American
20 property reported to the Japanese Government since the
21 beginning of this year include three bombings on
22 November 13, 14, and 18, 1938, of property of the
23 Christian and Missionary Alliance at Teiping; bombing
24 of the Peniel Missionary Home at Sai Nam, Kwangtung,
25 in June 1938 and again on October 22, 1938; bombing

1 on October 3 and 5, 1938, of property of the Standard-
2 Vacuum Oil Company at Nenchang; bombing on December 24
3 and again five days later on December 29, 1938, of build-
4 ings of the Christian and Missionary Alliance at Kweilin,
5 which resulted in the killing and wounding of members
6 of the staff of the mission and refugees therein; the
7 bombing on December 29, 1938, of the American Southern
8 Baptist Mission hospital, also at Kweilin, and the
9 bombing on December 29, 1938, of the American Southern
10 Baptist Mission at Shiuchow. Further bombings occurred
11 on January 10, 1939, which resulted in the demolition
12 of and damage to buildings belonging to the Evangelical
13 Lutheran Mission at Shasi, Hupch; on November 13 and
14 November 23, 1938, and again on January 12, 1939, which
15 resulted in the destruction of hospital and residence
16 buildings belonging to the American Presbyterian Mission,
17 North, at Hengyang, Hunan; on January 15, which resulted
18 in serious damage to the property of the Sutoh Girls'
19 School of the American Methodist Episcopal Mission at
20 Chungking; on January 23, which resulted in damage to
21 the American Church Mission at Kuling; on February 4,
22 which resulted in damage to property belonging to the
23 Werner G. Smith Company at Wanhsien; on February 22,
24 which resulted in damage to the hospital of the Covenant
25 Missionary Society at Kingmen; on February 25 which

1 resulted in damage to the American Catholic Mission
2 at Loting, and the serious wounding of Father Kennelly;
3 on March 8, which resulted in damage to two compounds
4 of the American Church Mission at Ichang, bombed in
5 separate raids; and again on March 14, which resulted
6 in damage to the St. James School property of the same
7 mission at Ichang; on March 17, when the American
8 Southern Baptist hospital at Chengchow was bombed twice,
9 causing six casualties; again on March 19, when this
10 same property was bombed for the seventh time since
11 February 1938; on March 20, resulting in serious damage
12 to property of the Covenant Missionary Society at
13 Siangyang, Hupeh, and to the Santeh Bible School
14 premises of the Lutheran United Mission at Fanchang,
15 Hupeh.

16 Joseph C. Grew."

17 We offer in evidence IPS document No. 219P
18 (84), from exhibit 58 for identification, which is
19 excerpts from an oral statement of Ambassador Grew to
20 Foreign Minister ARITA, November 21, 1938.

21 THE PRESIDENT: Admitted on the usual terms.

22 CLERK OF THE COURT: Prosecution's document
23 No. 219P (84) will be marked exhibit No. 986.

24 (Whereupon, the document above referred
25 to was marked prosecution's exhibit No. 986 and

1 received in evidence.)

2 MR. HARDIN: We read Exhibit No. 986:

3 "Oral Statement by the American Ambassador
4 in Japan (Grew) to the Japanese Minister for Foreign
5 Affairs (ARITA), November 21, 1938.

6 "Excerpts.

7 "Your Excellency has discussed the question
8 of the 'exploitation' of China and spheres of influence
9 therein. I think Your Excellency will agree with me
10 that the historical record shows clearly that the United
11 States of America has never attempted to 'exploit'
12 China or to acquire any 'sphere of influence' whatever
13 in that country. Our desire always has been and is
14 today to avoid spheres of influence and exploitation
15 by or in any one country.

16 "Our interpretation of the Open Door is
17 totally contrary to those principles. The principle
18 of equality of commercial opportunity has been a
19 fundamental principle of the foreign policy of the
20 United States ever since our country came into exis-
21 tence. The treaties relating to the Far East to which
22 the United States is a party and in which provisions
23 relating to that principle appear were in all instances
24 concluded with a view to decreasing and avoiding fric-
25 tions which had developed in or which might develop

in international contacts in that area.

"There can be no doubt that owing to Japan's actions and policies in China there is good reason why both Your Excellency and I should be disturbed with regard to the developing situation in Japanese-American relations. For my part I am more disturbed at present than I have been for a long time and it seems to me that whatever may result from our future conversations and negotiations Japan should now without further delay proceed to take the obvious steps to prevent those relations from steadily deteriorating.

"Another obvious step of prime importance on the part of the Japanese authorities would be forthwith to cease the bombing of and other interference with American mission and other property in areas far removed from military or naval operations. Such unwarrantable acts are taking place constantly, the reports of which are daily pouring into our Embassy. The plea that these outrages are accidental is obviously untenable in view of the volume and constancy of these depredations which recently have involved not only the loss of American property but the loss of American life, and the desecration of our flag."

We offer in evidence IPS document No. 219P
24 (44), from exhibit 58 for identification, which is
25

1 excerpt from memorandum by the Counsellor of Embassy
2 in Japan (Dooman), Tokyo, November 19, 1938.

3 THE PRESIDENT: Admitted on the usual terms.

4 CLERK OF THE COURT : Prosecution's document
5 No. 219P (44) will receive exhibit No. 987.

6 (Whereupon, the document above referred
7 to was marked prosecution's exhibit No. 987 and
8 received in evidence.)

9 MR. HARDIN: We read prosecution No. 987:
10 "Memorandum by the Counselor of Embassy in
11 Japan (Dooman).

12 "Excerpt. Tokyo, November 19, 1938.

13 "Mr. ARITA went on to say that there prevails
14 a widespread feeling that the Japanese Government has
15 now adopted a new policy -- one of closing the open
16 door in China. There had, in fact, been no change in
17 policy. His several predecessors had on several occa-
18 sions given assurances to the American, British, and
19 other representatives in Tokyo that Japan would respect
20 the principle of the open door. As a matter of fact,
21 those assurances were not intended to be unconditional,
22 for the reason that the time had passed when Japan
23 could give an unqualified undertaking to respect the
24 open door in China. He was not implying that his
25 predecessors had given the assurances in bad faith; on

1 the contrary, he felt certain that they were acting in
2 the best of faith, but what they were attempting to do
3 was to reconcile the principle of the open door with
4 Japan's actual needs and objectives, and that could
5 not be done. As he had previously explained, those
6 objectives are to provide Japan with a market secure
7 against any possible threat of economic sanctions and
8 to acquire safe sources of necessary raw materials;
9 but within those limits Japan was prepared to guarantee
10 equality of opportunity. There would be given full
11 consideration to those enterprises conducted by for-
12 eigners other than Japanese which would in no way con-
13 flict with or obstruct the carrying out of these primary
14 objectives, and with respect to those enterprises,
15 whether industrial, commercial, or financial, the
16 Japanese Government was fully prepared to give unqual-
17 ified guarantees. But with regard to other undertak-
18 ings which overlapped the Japanese economic defense
19 plans, it was no longer possible for Japan to extend
20 any such guarantee. When he came into office, he de-
21 cided that it would be mischievous as well as useless
22 to attempt to reconcile the principle of the open door,
23 as understood in the United States and elsewhere abroad,
24 with the new situation which Japan was endeavoring to
25 bring about. He therefore declined to repeat those

1 assurances in the note which was yesterday sent to the
2 American Government.

3 'Eugene H. Dooman."

4 THE PRESIDENT: This is a convenient break,
5 Mr. Hardin. We will adjourn, now, until half past one.
6 (Whereupon, at 1200, a recess was taken.)

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r1 AFTERNOON SESSION
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The Tribunal met, pursuant to recess,
at 1330.

MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Mr. Williams.

MR. E. WILLIAMS: Offering in evidence IPS
document No. 219P (45), from exhibit for identifi-
cation No. 58. This document is an aide-memoire
of the American Embassy in Japan to the Foreign
Ministry, dated September 1, 1937.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document
No. 219P (45) will receive exhibit No. 988.

(Whereupon, the document above
mentioned was marked prosecution's exhibit
No. 988, and was received in evidence.)

MR. E. WILLIAMS: We read from exhibit No.
988.

"THE AMERICAN EMBASSY IN JAPAN TO THE JAPANESE
MINISTRY FOR FOREIGN AFFAIRS

21 "AIDE-MEMOIRE
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"The American Ambassador on August 23 brought
orally to the attention of the Vice Minister for Foreign

1 "Affairs the desire of the diplomatic representa-
2 tives at Nanking of the United States, Great Brit-
3 ain, France, Germany and Italy that Japanese bombing
4 operations be excluded from an area in that city
5 wherein they and some of their nations reside and
6 where foreign shipping is anchored. The American
7 Government feels, however, that other aspects of
8 the matter demand equal consideration. The exten-
9 sive bombing of that city on the night of August 26
10 placed in danger the lives and property of noncom-
11 batants, both foreign and Chinese, and it has seemed
12 to the American Government that the appropriate Jap-
13 anese authorities, when this fact is brought to their
14 attention, may desire to limit future action in accord-
15 ance with the restraints which considerations of hum-
16 anity and of international comity usually impose on
17 the bombing of the political capital of a country,
18 especially when no state of war exists. Both before
19 and after the earlier request for the protection of
20 a defined area, there occurred bombing operations
21 over the city which extensively damaged the buildings
22 and killed and injured several of the employees of
23 the National Central University and also resulted
24 in the burning alive of numerous peaceful Chinese
25 in one of the poorer quarters. These scenes of

1 destruction have been visited by foreign diplomatic
2 officers. The Government and people of the United
3 States are in friendly relations with China as with
4 Japan. Basing its appeal, therefore, on these friendly
5 relations and on the principle of ordinary humanity,
6 the American Government requests the discontinuance
7 of activities which, despite their military object-
8 ives, result actually in the indiscriminate destruc-
9 tion of property used for educational and other non-
10 military purposes and in the wounding and painful
11 death of civilians.

12 "The American Government is also greatly
13 concerned over the fact that there are American
14 citizens still scattered throughout China who will
15 have to use the railways and motor roads as their
16 only means of leaving for places of comparative
17 safety. In view, therefore, of the widespread
18 bombing operations now being carried out by the Jap-
19 anese military throughout Chinese territory the
20 American Government feels that it may properly make
21 representations to the Japanese Government with a
22 view to persuading it to refrain from attacks upon
23 defenseless cities, hospitals, trains and motor cars,
24 et cetera. There is grave risk that sooner or later

1 some incident will take place resulting in the death
2 or injury to American citizens who are going about
3 their legitimate occupations within the interior
4 of China where such dangers should not exist. Japan
5 declares that it is not at war with China and yet
6 its planes are conducting raids far in the interior,
7 dropping deadly missiles with consequent serious
8 damage to the rights of other nations.

9 "The attention of the Japanese Government
10 is invited to the situation described in the fore-
11 going paragraphs in the hope that appropriate in-
12 structions may be issued to its military forces in
13 the field.

14 "TOKYO, September 1, 1937"

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We now wish to offer in evidence, if the
Tribunal please, IPS document No. 1573, which was
captured in the Japanese Foreign Office in Tokyo and
has been duly authenticated. It is a record of
conversations between Minister ARITA and Ambassador
Grew, in November and December 1938.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document No. 1573 will receive exhibit No. 989.

(Whereupon, the document above
mentioned was marked prosecution's exhibit
No. 989, and was received in evidence.)

13 THE PRESIDENT: Mr. Williams, a colleague
14 desires an explanation of the order followed in read-
15 ing these documents.

16 MR. L. WILLIAMS; The order attempted
17 generally to be followed was a chronological order;
18 however, as you will have noticed from the last
19 document that was read, it was a document which in-
20 advertently got out of its chronological order. That
21 happens occasionally.

22 Reading prosecution document, exhibit No.
23 989:

24 "SUMMARY OF JAPAN-AMERICAN NEGOTIATIONS DURING FOREIGN
25 MINISTER ARITA'S TENURE OF OFFICE (FROM NOV. 1938 UNTIL
JULY 1939)

"(September 2nd 1941)

1 "I. Prior to Minister ARITA assuming his duties
2 as Foreign Minister in November 1938 Ambassa-
3 dor GREW remarked to Premier KONOYE (concur-
4 rently holding the post of Foreign Minister)
5 on October 3rd that he wished to discuss
6 orally regarding problems that the U. S. Pre-
7 sident felt as possessing direct interests,
8 and after stating that, notwithstanding that
9 the respecting of American rights and interests
10 in China as well as the Open - Door Policy as
11 well as Principle of Equal Opportunity had
12 been definitely guaranteed by the former Minis-
13 ter (T.N. Foreign Minister), he regretted to
14 have to declare that the infringing of American
15 rights and interests had not ceased and that
16 the Open Door Policy was still being ignored,
17 and after citing some instances such as Ex-
18 change Control and Trade Restrictions etc. in
19 North China, he demanded that prompt and effec-
20 tive measures be taken in order to carry out
21 the guarantee that had been duly made. (An-
22 nexed Document No. 1). To this Minister
23 KONOYE replied that Japan's China Policy as
24 well as foreign policy remained unchanged, and
25

1 that Japan's assertion with regard to the re-
2 specting of foreign rights and interests relative
3 to China as well as the maintenance of the Open
4 Door Policy and the Principle of Equal Oppor-
5 tunity remained unchanged, adding, that, al-
6 though in point of fact, there had been cases
7 at times which were not settled satisfactorily
8 due to military strategic necessity or other
9 reasons, he was striving to settle matters as
10 satisfactorily as possible upon the conditions
11 returning to their normal state. He also
12 stated that, with regard to commercial and
13 internal problems, he wished to, after studying
14 same, comply with the Ambassador's request at
15 the earliest possible opportunity.

16 "Ambassador Grew subsequently sent a note em-
17 bodying the same contents as the foregoing
18 paragraph. (Annexed Document No. 2).

19 "III. The manner of reply to the aforesaid American
20 Ambassador's note was studied ever since the
21 appointment of ARITA as Foreign Minister and
22 although it had been decided to put off the
23 said reply until conditions had become settled
24 for awhile as it happened to be just before
25 the fall of Canton with the capitulation of

1 Hankow being close at hand, so that the state
2 of affairs was changing rapidly, in view of
3 this matter representing problems which, after
4 all, possess an important bearing to the Nine-
5 Power Pact, after studying the draft of the
6 reply based on the policy of:

- 7 "(a) Avoiding all phraseology whatsoever
8 that would reaffirm the principles of the
9 Open Door and Equal Opportunity based on
10 the Nine-Power Pact.
11 "(b) Making them understand that, although
12 the existing rights and interests of Third
13 Powers will be respected, this is not being
14 done as a corollary of the Nine-Power Pact.
15 "(c) Making them understand that the stan-
16 dard laws governing the future economic ac-
17 tivities by Third Powers in New China shall
18 be established in conformity with the new
19 conditions, a reply was sent on November 18th
20 to the following effect, in addition to
21 giving explanations to each of the instances
22 cited in the American note and clarifying
23 the point that their claims regarding In-
24 fringement of Rights and Interests were un-
25 justified, viz.:

- 1 "(1) It is hoped that, inasmuch as military
2 activities are being conducted on a
3 unprecedented scale in East Asia, the
4 United States will note the fact that
5 there may be times when difficulties
6 may occur in executing our intention
7 regarding the respecting of American
8 rights and interests.
- 9 "(2) The Empire believes that it will not
10 solve urgent problems of the moment
11 or aid towards the establishing of
12 permanent peace in East Asia by at-
13 tempting to gauge the present and
14 future state of affairs by ideas or
15 principles in their original form
16 that were applied to the pro-incident
17 state of affairs, especially at this
18 time when the Empire is dashingly ahead
19 with the Establishment of a New Order
20 in East Asia and when new conditions
21 are setting in in East Asia.
- 22 "(3) Should any Third Power or Powers par-
23 ticipate in the gigantic task of Re-
24 construction of East Asia in the fields
25 of enterprises and trade by appreciating

the afore-mentioned points, the Empire shall have no objection whatsoever towards same. (Annexed Document No. 3).

4 "III. When Minister ARITA invited Councillor Dooman
5 of the U. S. Embassy at Tokyo on November 19th
6 and asked about the impressions regarding the
7 recent Japanese Reply, Dooman replied that
8 Ambassador Grew's impression regarding the said
9 Reply seemed to be that 'It represented a whole-
10 sale denial of the American Demands', where-
11 upon Minister ARITA explained that it would be
12 excusable if the Open Door Policy and the Prin-
13 ciple of Equal Opportunity were applied to the
14 entire world from the start, but it is extreme-
15 ly illogical to apply same today to China only.
16 ARITA then went on to say that his predecessor
17 gave his guarantee regarding the respecting of
18 the said principles by being of the belief that
19 the actual prevailing conditions could be made
20 to harmonize with the Open Door Policy and the
21 Principle of Equal Opportunity, but that, in
22 his own opinion, it was no longer possible to
23 expect the said harmony, at the same time ex-
24 plaining the great pains taken by Japan in re-
25 gard to the said reply, to which Dooman stated

1 that it was extremely regrettable that there
2 were over 300 cases recently remaining unsettled
3 despite their having no connections with mili-
4 tary actions and being extremely trivial matters,
5 and that the recent official American note was
6 the result of the American commercial concerns
7 in various parts of China exerting severe pres-
8 sure on their Home Government, at the same time
9 pointing out that the United States did not
10 make any reference to the Nine-Power Pact.

11 "IV. On inviting Ambassador Grew to Tokyo subse-
12 quently on the 21st of the same month and con-
13 ferring with him on the same principle as per
14 the foregoing paragraph, Grew declared as fol-
15 lows after making the introductory remark that
16 what he would be saying today would not be in
17 the nature of any reply whatsoever to the Ja-
18 panese Note of the 18th:

19 "(1) The United States Government has never
20 attempted to exploit China nor extend Am-
21 erican influences in China. The United
22 States Government's interpretation of
23 'Open Door' is totally different from the
24 foregoing. In other words, the Principle
25 of Equal Opportunity in regard to Com-

merce has always been the actual basic principle of the United States.

20 "(3) The Commercial Policy of the United
21 States lies in aiming at international
22 concord by striving for the expansion of
23 foreign trade by means of removing ob-
24 stacles lying in the way of the interna-
25 tional distribution of commodities. I

believe that the frequent instances of
other countries trying to gain most-fa-
vored footings do not contribute towards
establishing prosperity in the United
States and the world.

"(4) On November 3rd Premier KONOYE stated
that 'Japan will cooperate with any
Third Power that appreciates Japan's
real intentions and adopts a policy that
conforms to the new state of affairs',
but what is the concrete meaning of this
statement? Surely he does not mean the
kind of cooperation whereby, as is being
generally rumored, Americans can not en-
gage in trade in China without going
through the hands of Japanese merchants.

"(5) Minister ARITA expressed his wish that
the United States should allow Japan suf-
ficient time to see what the results
would be, but there is a limit to the
patience of the American people. Consi-
dering it impossible to pacify public opin-
ion, the Government has, to begin with,
demanded the liberation of the Lower
Yangtze region as well as the suspension

1 of bombing of and other interference with
2 churches and their properties situated
3 at considerably far-off distances from
4 the scene of military operations. (An-
5 nexed Document No. 4).

6 " To the foregoing Minister ARITA explained that,
7 in regard to Item (4) of the foregoing para-
8 graph, it is difficult, as was made plain in
9 the last part of our Reply dated the 18th, it
10 was impossible for Japan to recognize the un-
11 conditional application of Equal Opportunity
12 and Open Door at the present day when the state
13 of affairs in China has become changed, but
14 that Japan possesses the desire to cooperate
15 with Third Powers in the event of the foregoing
16 becoming understood, at the same time remark-
17 ing in connection with the rumours as speci-
18 fied at the end of the said paragraph that such
19 a thing was totally impossible and could also
20 not be put into practice, whereupon Grew stated
21 that he felt relieved on hearing the foregoing.
22 Minister ARITA further explained that the as-
23 sertion that Japan's Open Door Policy and Prin-
24 ciple of Equal Opportunity might clash with the
25 respecting of rights and interests of Third

1 Powers implied that measures necessary for
2 fostering the closer relationship of Japan and
3 China as well as for ensuring Japan and China's
4 rights of existence might at times necessitate
5 eliminating the application of the aforesaid
6 Principles to some extent, so that there was
7 still considerable room left for economic ac-
8 tivities of other countries.

9 As Grew then asked as to what was meant by the
10 New Order, Minister ARITA replied that same
11 implies the establishing of co-operation be-
12 tween Japan, Manchukuo, and China in regard
13 to Politics, Economy, and Culture, meaning,
14 as for example, that Political Co-operation is
15 indispensable for exterminating the Anti-Japan-
16 ese Policy as well as Pro-Communistic Policy
17 that have so far been the causes of unrest in
18 the Orient, whereas, furthermore, in regard
19 to Economic Cooperation, it may become neces-
20 sary, as mentioned above, to eliminate, to some
21 extent, the application of the Open Door and
22 Equal Opportunity Principles.

23 Furthermore, on Grew remarking that he consid-
24 ered it necessary for Japan to make some sort
25 of gesture in order to pacify the excited

feelings of the general public in the United
1 States, the Minister replied that, although
2 he recognized the need of same on principle,
3 he was not in a position to say any more as
4 the question of Liberation of the Yangtze
5 River had already been replied to.

6 "V. On December 8th Minister ARITA invited Grew,
7 and after having explained as follows regarding
8 the unanswered points of the foregoing Clause
9 IV, handed to him a written note embodying the
10 said points (Annexed Document No. 5).

11 "(1) Referring to the views of the United
12 States as per the former part of Item 2
13 of the foregoing Clause IV, the appli-
14 cation, in their original form, of the
15 various treaties which were concluded at
16 the time for the purpose of preventing
17 international disputes in the Orient
18 would, with the general change of condi-
19 tions in the world, as well as the new
20 state of affairs that is developing in
21 the Far East, rather hamper the bringing
22 about of Peace and Universal Prosperity.

23 "(2) Equal Opportunity in regard to Commerce
24 is what the Empire has been hitherto de-

1 manding of the world, and although we
2 agree, on principle, to the opinion of
3 the United States that Equal Opportunity
4 in regard to Commerce will bring about
5 World Peace, but, as things are at pre-
6 sent, good quality and low-priced Japan-
7 ese goods are meeting with discriminatory
8 treatment all over the world. As regards
9 the gaining of a most-favoured footing
10 by one country in other countries as per
11 Item (3) of the foregoing Clause IV, the
12 Most-Favoured relations between the Bri-
13 tish Empire with her colonies as well
14 as co-mutually among her colonies were
15 pointed out, at the same time asserting that
16 the contention that in the case of the
17 British Empire it is unavoidable as it
18 applies to a single political unit but
19 that the establishing of economic rela-
20 tions between Japan, Manchukuo, and
21 China similar to those within the British
22 Empire can not be recognized in view of
23 the said three countries not constituting
24 a single political unit, can not be toler-
25 eted."

1 "(3) Moreover, it was reiterated that it was
2 Japan's belief that it would by no means
3 contribute towards stabilizing the world
4 to let an economic unit like that of Ja-
5 pen exist on one hand against such large
6 economic units of the British Empire,
7 the United States and the Soviet Union on
8 the other, and that, as the relations of
9 Japan, Manchukuo and China in regard to
10 mutual economic cooperation emanated
11 from the afore-mentioned idea, same would
12 not conflict with the prosperity of the
13 world. This collaboration has for its
14 object:

15 "(a) In regard to the field of enter-
16 prise, the guaranteeing of supply
17 of products that are indispensable
18 from the standpoint of national ex-
19 istence. To attain this object
20 there may be enterprises that re-
21 quire the granting of special mono-
22 polistic rights in order to foster
23 their development. In regard to
24 such enterprises, Third Powers will
25 be welcomed, within the sphere of

1 the plans of Japan, Manchukuo, and
2 China, to participate in regard to
3 capital, technics or resources, but
4 the establishment of competitive
5 enterprises shall not be recognized.

6 "(b) Furthermore, in regard to the field
7 of foreign trade, it shall be the
8 principle not to make any special
9 discriminatory treatment by enforc-
10 ing Customs tariffs or other ex-
11 port and import counter-measures.

12 "To this, Grew remarked that he believed
13 it to be the stand of the United States
14 Government that it could not recognize
15 any one-sided alterations to any treaties
16 or other agreements until the necessary
17 procedure regarding alteration of same
18 be taken conjointly by the countries con-
19 cerned, after which he stated that it
20 would be desirable to prove by actual facts
21 that Japan will not show discriminatory
22 treatment.

23 "VI. On December 26th Grew was invited and told that
24 it was regrettable that, whereas it had already
25 been made clear on repeated occasions that Japan

1 entertained no intention of closing the Chinese
2 Market, the editorial tone of some of the Am-
3 erican newspapers and magazines went to show
4 that Japan's real intention was not being under-
5 stood, whereupon Grew stated that, although the
6 said newspapers and magazines were not neces-
7 sarily expressing the views of the Government,
8 it was nevertheless true that the American pub-
9 lic in general were feeling greatly uneasy re-
10 garding Japan's actions in China, also adding
11 that the use of restrictive phraseology, on
12 the occasion of the previous interview such as
13 having stated that it would be necessary to
14 give protection to 'certain' industries and
15 'special' enterprises is liable to create un-
16 easiness regarding Actual Treatment. To this
17 the Minister replied that such restrictions
18 should not be interpreted in a broad sense,
19 whereupon Grew again expressed his desire to
20 have the foregoing demonstrated by actual facts
21 On that occasion Ambassador Grew remarked that
22 it was regrettable to have issued a statement
23 like that of November 3rd regarding the Open
24 Door and Equal Opportunity in China notwith-
25 standing that same had been guaranteed by

1 Foreign Minister Chu as well as Minister KONOYE,
2 whereupon the Minister repeated the same expla-
3 nation that he had made to Councillor Dooman
4 on November 19th.

5 "VII. On December 31st Ambassador Grew visited the
6 Vice-Minister (adding that, although he had
7 visited the Vice-Minister due to Minister ARITA
8 being away on a trip, he wished it to be under-
9 stood that same would have the same results as
10 having visited the Minister) and handed him an
11 official note expressing the views of the United
12 States in regard to Japan's Reply to the United
13 States under date of November 18th. The Vice-
14 Minister asked for an explanation of the main
15 points of the said note, to which Grew explained
16 that same expresses the views of the United
17 States Government as follows:

- 18 "(1) The so-called New State of Affairs in the
19 Far East can not be created only by Japan's
20 ex-parte Declaration, but should be re-
21 cognized only by means of a Conference.
22 "(2) It is true that the Powers including the
23 United States possess special rights in
24 China, and although the United States
25 has always been advocating that such dis-

1 criminatory special rights should be a-
2 bolished and that China should be granted
3 an equal (T.N. original says UNEQUAL)
4 position, it is believed that such changes
5 in the state of affairs should also be
6 effected at a Conference of the Powers,
7 and also added that, as the United States
8 possesses special interest in the state
9 of affairs in the Far East, the United
10 States would announce same at the first
11 opportunity. (Annexed Document No. 6).

12 "VIII. Ever since then, the conversations between the
13 Minister and Ambassador Grew became suspended,
14 but on the occasion of Ambassador Grew's tem-
15 porary return to the United States (T.N. the
16 original specifies KIOHO implying return to
17 Japan, probably an error) in May 1939, Minis-
18 ter ARITA handed the said Ambassador a note
19 as per Annexed Document, and Premier HIRANUMA
20 also requested him to convey a message address-
21 ed to Secretary of State Hull. (Annexed Docu-
22 ments Nos. 7 and 8)."

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1 I now offer in evidence IPS document
2 No. 219P (85) from exhibit No. 58 for identifica-
3 tion. This is an excerpt from a statement of
4 Ambassador Grew to Foreign Minister ARITA, Tokyo,
5 November 24, 1938.

6 THE PRESIDENT: Admitted on the usual
7 terms.

8 CLERK OF THE COURT: Prosecution's
9 document No. 219P (85) will receive exhibit No.
10 990.

11 ("Whereupon, the document above
12 referred to was marked prosecution's exhibit
13 No. 990 and was received in evidence.)

14 MR. E. WILLIAMS: We read prosecution
15 exhibit No. 990:

16 "The American Ambassador in Japan (Grew)
17 to the Japanese Minister for Foreign Affairs (ARITA)

18 "Tokyo, November 24, 1938.

19 "It has recently been brought to the
20 attention of my Government that the Chinese Maritime
21 Customs at Canton was taken over by the Japanese
22 consular and military authorities on November 9,
23 1938, and that the acting deputy commissioner in
24 charge was informed by those authorities that no
25 customs funds then owing or there in banks might be

transferred to the Inspector General of Customs
without the permission of the Japanese authorities.

"Accordingly, acting under instructions
from my Government, I have the honor formally to
protest against the taking over of the Chinese
Maritime Customs House at Canton by the Japanese
authorities. My Government is of the opinion that
this reported action constitutes an infringement of
the international status of the Chinese Maritime
Customs."

We offer in evidence IPS document No.
219P (86), same being from exhibit for identifica-
tion No. 58. This is an excerpt from the statement
of Ambassador Grew to Foreign Minister ARITA, Tokyo,
December 30, 1938.

THE PRESIDENT: Admitted on the usual
terms.

CLERK OF THE COURT: Prosecution's document
No. 219P (86) will receive exhibit No. 991.

(Whereupon the document above
referred to was marked prosecution's exhibit
No. 991 and was received in evidence.)

MR. E. WILLIAMS: We read prosecution
exhibit No. 991:

"The American Ambassador in Japan (Grew)

1 to the Japanese Minister for Foreign Affairs (ARITA).

2 "Tokyo, December 30, 1938.

3 "In the light of facts and experience the
4 Government of the United States is impelled to re-
5 affirm its previously expressed opinion that impos-
6 tion of restrictions upon the movements and activi-
7 ties of American nationals who are engaged in philan-
8 thropic, educational and commercial endeavors in
9 China has placed and will, if continued, increasing-
10 ly place Japanese interests in a preferred position
11 and is, therefore, unquestionably discriminatory in
12 its effect against legitimate American interests.
13 Further, with reference to such matters as exchange
14 control, compulsory currency circulation, tariff re-
15 vision, and monopolistic promotion in certain areas
16 of China the plans and practices of the Japanese auth-
17 orities imply an assumption on the part of those
18 authorities that the Japanese Government or the re-
19 gimes established and maintained in China by Japan-
20 ese armed forces are entitled to act in China in a
21 capacity such as flows from rights of sovereignty and
22 further in so acting to disregard and even to declare
23 nonexistent or abrogated the established rights and
24 interests of other countries including the United
25 States. "

1 "The Government of the United States ex-
2 presses its conviction that the restrictions and meas-
3 ures under reference not only are unjust and un-
4 warranted but are counter to the provisions of sever-
5 al binding international agreements, voluntarily
6 entered into, to which both Japan and the United
7 States, and in some cases other countries, are par-
8 ties.

9 "The Government of the United States in its
10 note of October 6 requested, in view of the often
11 reiterated assurances proffered by the Government of
12 Japan of its intention to observe the principle of
13 equality of opportunity in its relations with China
14 and in view of Japan's treaty obligations so to do,
15 that the Government of Japan abide by these obliga-
16 tions and carry out these assurances in practice.
17 The Japanese Government in its reply appears to affirm
18 that it is its intention to make its observance of
19 that principle conditional upon an understanding by
20 the American Government and by other governments of
21 a 'new situation' and a 'new order' in the Far East
22 as envisaged and fostered by Japanese authorities.

23 "This country's adherence to and its advo-
24 cacy of the principle of equality of opportunity do
25 not flow solely from a desire to obtain the commer-

1 cial benefits which naturally result from the pro-
2 visions of that principle. They flow from a firm
3 conviction that observance of that principle leads
4 to economic and political stability, which are con-
5 ducive both to the internal well-being of nations
6 and to mutually beneficial and peaceful relation-
7 ships between and among nations; from a firm con-
8 viction that failure to observe that principle breeds
9 international friction and ill-will, with conse-
10 quences injurious to all countries, including in par-
11 ticular those countries which fail to observe it; and
12 from an equally firm conviction that observance of
13 that principle promotes the opening of trade chan-
14 nels thereby making available the markets, the raw
15 materials and the manufactured products of the com-
16 munity of nations on a mutually and reciprocally ben-
17 eficial basis.

18 "The principle of equality of economic
19 opportunity is, moreover, one to which over a long
20 period and on many occasions the Japanese Government
21 has given definite approval. It is one to the ob-
22 servance of which the Japanese Government has com-
23 mitted itself in various international agreements and
24 understandings. It is one upon observance of which
25 by other nations the Japanese Government has of its

1 own accord and upon its own initiative frequently
2 insisted. It is one to which the Japanese Govern-
3 ment has repeatedly during recent months declared
4 itself committed.

5 "The people and the Government of the
6 United States could not assent to the establish-
7 ment at the instance of and for the special pur-
8 poses of any third country of a regime which would
9 arbitrarily deprive them of the long established
10 rights of equal opportunity and fair treatment
11 which are legally and justly theirs along with those
12 of other nationals.

13 "Fundamental principles such as the prin-
14 ciple of equality of opportunity which have long
15 been regarded as inherently wise and just which
16 have been widely adopted and adhered to, and which
17 are general in their application are not subject to
18 nullification by a unilateral affirmation.

19 "In the light of these facts, and with ref-
20 erence especially to the purpose and the character
21 of the treaty provisions from time to time solemnly
22 agreed upon for the very definite purposes indicated,
23 the Government of the United States deprecates the
24 fact that one of the parties to these agreements has
25 chosen to embark--as indicated both by action of its

1 agents and by official statements of its authorities
2 --upon a course directed toward the arbitrary crea-
3 tion by that power by methods of its own selection,
4 regardless of treaty pledges and the established
5 rights of other powers concerned, of a 'new order'
6 in the Far East. Whatever may be the changes which
7 have taken place these matters are of no less in-
8 terest and concern to the American Government than
9 have been the situations which have prevailed there
10 in the past, and such changes as may henceforth
11 take place there, changes which may enter into the
12 producing of a 'new situation' and a 'new order',
13 are and will be of like concern to this Government.
14 This Government is well aware that the situation
15 has changed. This Government is also well aware
16 that many of the changes have been brought about by
17 the action of Japan. This Government does not admit,
18 however, that there is need or warrant for any one
19 Power to take upon itself to prescribe what shall be
20 the terms and conditions of a 'new order' in areas
21 not under its sovereignty and to constitute itself
22 the repository of authority and the agent of destiny
23 in regard thereto.

25 "The Government of the United States has at
all times regarded agreements as susceptible of alter-

1 ation, but it has always insisted that alterations
2 can rightfully be made only by orderly processes of
3 negotiation and agreement among the parties thereto.

4 "The Japanese Government has upon numerous
5 occasions expressed itself as holding similar views.

6 "The United States has in its international
7 relations rights and obligations which derive from
8 international law and rights and obligations which
9 rest upon treaty provisions. Of those which rest on
10 treaty provisions, its rights and obligations in and
11 with regard to China rest in part upon provisions in
12 treaties between the United States and China and in
13 part on provisions in treaties between the United
14 States and several other powers including both China
15 and Japan. These treaties were concluded in good
16 faith for the purpose of safeguarding and promoting
17 the interests not of one only but of all of their sig-
18 natories. The people and the Government of the United
19 States cannot assent to the abrogation of any of this
20 country's rights or obligations by the arbitrary
21 action of agents or authorities of any other country."

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1 Next we offer in evidence IPS document
2 No. 219P (87), the same being from exhibit for
3 identification No. 58. This is an excerpt from a
4 statement by Ambassador Grew to Foreign Minister
5 ARITA, Tokyo, March 11, 1939.

6 THE PRESIDENT: Admitted on the usual
7 terms.

8 CLERK OF THE COURT: Prosecution's docu-
9 ment No. 219P (87) will receive exhibit No. 992.

10 (Whereupon, the document above
11 referred to was marked prosecution's exhibit
12 No. 992 and was received in evidence.)

13 MR. E. WILLIAMS: We read prosecution
14 exhibit No. 992:

15 "The American Ambassador in Japan (Grew)
16 to the Japanese Minister for Foreign Affairs (ARITA).

17 "Tokyo, March 11, 1939.

18 "Excellency: The renewed attention of
19 Your Excellency is invited to my note No. 1178,
20 dated February 6, 1939, relating to the imposition by
21 the Japanese naval authorities at Chefoo of various
22 restrictions on the shipment of merchandise, to the
23 informal memorandum relating to unwarranted restric-
24 tions placed upon American personal and business
25 interests in Tientsin which was left by the Counselor

of the Embassy on (with) the Director of the
1 American Bureau of the Foreign Office on February
2 6, 1939, and to the aide memoire which was left at
3 the Foreign Office on March 8, 1939, in which the
4 hope was expressed that, in view of the continued
5 imposition of such restrictions at Tientsin, nec-
6 essary steps would immediately be taken to alleviate
7 those restrictions.
8

"From various sources the Government of
9 the United States has received further information
10 to the effect that the Japanese sponsored regime in
11 North China, with the support of the Japanese author-
12 ities, has brought about the imposition of drastic
13 trade restrictions, including the requirement of
14 export permits and controlled money exchange.
15

"The Government of the United States
16 regards these export restrictions as the most compre-
17 hensive discrimination against the United States and
18 other foreign countries and in favor of Japan which
19 has yet been established in North China by Japanese
20 authorities and as a virtual nullification in that
21 area of the principle of equal opportunity so far
22 as import and export are concerned."
23

We now offer in evidence IPS document
25 No. 219P (88) from exhibit for identification No. 58.

1 This is a statement dated September 1, 1939, by the
2 American Charge in Japan Dooman to the Minister for
3 Foreign Affairs.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 No. 219P (88) will receive exhibit No. 993.

7 ("Whereupon, the document above
8 referred to was marked prosecution's exhibit
9 No. 993 and was received in evidence.)

10 MR. E. WILLIAMS: We read exhibit No. 993:
11 "The American Charge in Japan (Dooman)
12 to the Japanese Minister for Foreign Affairs (ABE).

13 "Tokyo, September 1, 1939.

14 "Excellency: I have the honor to inform
15 Your Excellency that the Japanese military forces at
16 Swatow have continued to occupy the premises of the
17 Chinese Maritime Customs at that port for a period of
18 more than two months.

19 "It is the view of my Government that the
20 actions, as set forth above, of the Japanese author-
21 ities at Swatow constitute an effective seizure of the
22 Chinese Maritime Customs at Swatow. I am, accordingly,
23 desired by my Government to protest against such
24 seizure and continued occupation of the customs
25 house which prejudice the integrity of the Chinese

1 Maritime Customs. My Government takes this occasion
2 to reiterate and further to emphasize to the Japanese
3 Government its very real interest in the
4 preservation and integrity of the Chinese Maritime
5 Customs and in the safeguarding of the customs
6 revenues.

7 "I avail myself, (etc.).

8 Eugene H. Dooman."

9 May it please the Tribunal, we offer in
10 evidence IPS document No. 713, taken from the
11 Japanese Foreign Office and duly authenticated.
12 This is the notification by the Secretary of State
13 of the United States handed to Ambassador HORINOUCHI
14 in Washington and by him transmitted to the Japanese
15 Foreign Office in Japan, dated July 26, 1939, the
16 American Government and its intention to withdraw
17 from the Treaty of Commerce and Navigation.
18

19 THE PRESIDENT: Admitted on the usual terms.

20 CLERK OF THE COURT: Prosecution's docu-
21 ment No. 713 will receive exhibit No. 994.

22 ("hereupon, the document above
23 referred to was marked prosecution's exhibit
24 No. 994 and was received in evidence.)

25 MR. E. WILLIAMS: We read prosecution's
exhibit No. 994:

1 "Report from "Washington No. 707. (Dated
2 July 26, 1939).

3 "Notification from the U.S. Secretary of
4 State Hull to the Japanese Ambassador to the U.S.
5 HORINOUCHI in regard of the abolition of Japanese-
6 American Commercial Treaty.

7 "I take the liberty to inform you that,
8 during the recent years the Government of the United
9 States has been examining the treaties of commerce
10 and navigation in force between the United States
11 and other countries with a view to determining what
12 changes may need be made toward better serving the
13 purposes for which such treaties were concluded.

14 "In the course of this survey, the Govern-
15 ment of the United States has come to a conclusion
16 that the Treaty of Commerce and Navigation existing
17 between the United States and Japan which was signed
18 at "Washington on February 21, 1911, contained pro-
19 visions which deserve new consideration.

20 "In order to find an adequate method for
21 such consideration, and with a view to better safe-
22 guarding and promoting American interests as new de-
23 velopments may require, the Government of the United
24 States, acting in accordance with the procedure
25 prescribed in Article XVII of the said treaty,

1 hereby wishes to give notice of its desire that
2 this treaty be terminated, and that having thus
3 given notice, the United States expects the treaty,
4 together with its annexed protocol, to expire after
5 six months from this date.

6 "In concluding this letter, I beg to
7 renew my respects to you.

8 "Respectfully yours,".

9 We offer in evidence IPS document No.
10 219P (63) from exhibit for identification No. 58.
11 This is excerpt from an oral statement of Ambassador
12 Grew, May 11, 1939, to Foreign Minister ARITA.

13 THE PRESIDENT: Admitted on the usual terms.

14 CLERK OF THE COURT: Prosecution's document
15 No. 219P (63) will receive exhibit No. 995.

16 ("Whereupon, the document above
17 referred to was marked prosecution's exhibit
18 No. 995 and was received in evidence.)

19 MR. E. WILLIAMS: We read prosecution
20 exhibit No. 995:

21 "Oral Statement by the American Ambassador
22 in Japan (Grew) to the Japanese Minister for Foreign
23 Affairs (ARITA) on May 11, 1939.

24 "I have now been instructed by my Govern-
25 ment to call on Your Excellency and, primarily on

1 humanitarian grounds, and in reiteration of the
2 representations made on both occasions mentioned,
3 emphatically to express the most serious concern
4 at the recent indiscriminate bombings of the civilian
5 populations of Chungking, Swatow, Ningpo, and Foo-
6 chow. According to information reaching my Govern-
7 ment, the destruction caused by these air raids by
8 the Japanese forces was confined almost entirely to
9 civilian lives and the property of civilians.

10 "Added to the humanitarian factor applying
11 to non-combatants generally, there exists the em-
12 phatic objection of the American Government to the
13 jeopardizing of the lives of its own nationals which
14 must inevitably arise from such indiscriminate
15 attacks. I need hardly remind Your Excellency of
16 the repeated bombings of American property in China,
17 of which approximately 140 separate instances have
18 come to my Government's attention during the present
19 hostilities, in spite of the fact that these properties
20 were clearly marked by American flags and their posi-
21 tions notified to the Japanese military authorities.
22 Loss of American life, wounds and serious property
23 damage were caused. The fact that during a recent
24 period reports of these attacks on American property
25 dwindled, and for a time actually ceased, gave us

1 the hope that effective steps were being taken to
2 meet our representations."

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1 We offer in evidence IPS document No.
2 219P(64), an excerpt from the exhibit for identifica-
3 tion 58. This is an excerpt from the statement of
4 Charge Dooman in Japan to Secretary of State, May 22,
5 1939.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 219P(64) will receive exhibit No. 996..

9 (Whereupon, the document above referred
10 to was marked prosecution's exhibit No. 996
11 and was received in evidence.)

12 MR. E. WILLIAMS: We read prosecution exhibit
13 No. 996:

14 "THE CHARGE IN JAPAN (DOOMAN) TO THE
15 SECRETARY OF STATE

16 "TOKYO, May 22, 1939 -- 6 p.m.
17 (Received May 23 -- 9:10 a.m.

18 "241. Department's 138, May 20, 4 p.m.,
19 bombing of American properties.

20 "According to reports received from reliable
21 sources, the American Lutheran Brethren Mission
22 property at Tangho, Honan Province, was bombed on
23 May 4, and on May 2 the property of the same mission
24 at Tungpeh was bombed and the church and school
25 belonging to the mission were destroyed. Both

1 properties were marked, the report concerning the
2 latter case stating specifically that a large American
3 flag was flying from a high pole at the time of bombing
4 and that the American flag was painted on the roof.
5 A bomb was also dropped on April 27 on hospital
6 property at Kingmen, Hupeh, belonging to the Covenant
7 Missionary Society.

8 "OONAN."

9 Now we offer in evidence IPS document
10 No. 220 C(1), which is taken from Volume 2 of
11 exhibit 58 for identification and is an excerpt from
12 the telegram of Ambassador Grew to Secretary of
13 State, May 18, 1939.

14 THE PRESIDENT: Admitted on the usual terms.

15 CLERK OF THE COURT: Prosecution's document
16 No. 220 C(1) will receive exhibit No. 997.

17 (Whereupon, the document above
18 referred to was marked prosecution's exhibit
19 No. 997 and was received in evidence.)

20 MR. E. WILLIAMS: We read prosecution
21 exhibit No. 997:

22 "TELEGRAM
23 "THE AMBASSADOR IN JAPAN (GREW) TO THE
24 SECRETARY OF STATE
25 "TOKYO, May 18, 1939 -- 7 p.m.

"(Received May 18 -- 10:03 a.m.)

1 "8. The Minister on his own initiative then
2 turned to the subject of the so-called 'South Sea
3 advance' and made to me the following confidential
4 oral statement:

5 "We understand that, since the military
6 occupation of Hainan Island by Japan and the placing
7 of the Sinnan Gunto (Spratly Islands) under the
8 jurisdiction of the Formosan Government General, rumors
9 have spread, giving the impression as though Japan
10 entertained some territorial designs toward the
11 South Seas; that as a result certain interested countries
12 are apprehensive, and that even some Americans have
13 similar apprehension with regard to the Philippines.

14 The Japanese Government consider it regrettable
15 from the standpoint of Japanese-American friendship
16 that such apprehension has been aroused. They are,
17 therefore prepared, if the United States Government
18 should desire that some step be taken by the Japanese
19 Government for the purpose of dispelling such apprehen-
20 sion, to enter into conversation with the United States
21 Government."

22 "Cipher texts by mail to Shanghai, Chungking,
23 Peiping.
24

25 "GREW"

1 Now we offer in evidence IPS document
2 No. 219P (65) from exhibit for identification 58.

3 This is an excerpt from a telegram of Secretary of
4 State Hull to Ambassador Grew, dated July 6, 1939.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 219P (65) will receive exhibit No. 998.

8 (Whereupon, the document above
9 referred to was marked prosecution's exhibit
10 No. 998 and was received in evidence.)

11 MR. E. WILLIAMS: We read prosecution exhibit
12 No. 998:

13 "THE SECRETARY OF STATE TO THE AMBASSADOR
14 IN JAPAN (GRE")

15 "(Paraphrase)

16 "WASHINGTON, July 6, 1939 -- 7 p.m.

17 "183. On July 5, and at his own request, the
18 Counselor of the Japanese Embassy (SUMA) called at the
19 Department.

20 "An informal memorandum was then handed to
21 the Counselor in which was described the bombings of
22 certain Protestant and Roman Catholic mission properties
23 on June 23, 24 and 25, and the bombing of the Union
24 High School, Foochow, on June 29.

25 "Telegram repeated to Chungking.

"HULL"

1 "We now offer in evidence IPS document
2 No. 219P (66) from exhibit 58 for identification,
3 which is an excerpt from a memorandum of Secretary
4 of State Hull, dated July 10, 1939.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 219P (66) will receive exhibit No. 999.

8 ("Whereupon, the document above
9 referred to was marked prosecution's exhibit
10 No. 999 and was received in evidence.)

11 MR. E. WILLIAMS: We read prosecution exhibit
12 No. 999:

13 "MEMORANDUM BY THE SECRETARY OF STATE
14 "(WASHINGTON) July 10, 1939.

15 "The Japanese Ambassador came in at my
16 request. I then proceeded, without particular prelim-
17 inaries, to read him the following:

18 "'On two occasions between midnight and
19 2:00 a.m., July 6, two squadrons of Japanese planes
20 raided Chungking. Bombs fell at random on both
21 banks of the Yangtze River and in the city. One
22 bomb fell within 400 feet of the residence of the
23 Counselor of the American Embassy. Other bombs fell in
24 the same general neighborhood, one landing about 300

1 yards from the residence of the American Ambassador.
2 The Lewis Memorial Institutional Church at Chungking,
3 an American institution, was badly damaged.

4 "Another raid was made by Japanese planes
5 on Chungking on July 7 commencing about 12:40 a.m.,
6 and lasting until about 2:10 a.m. On this occasion
7 bombs fell in various areas of the city and also on
8 the south bank of the Yangtze, one bomb falling within
9 50 yards of the quarters of the Counselor of the
10 American Embassy and causing about 30 Chinese civilian
11 casualties.

12 "During these raids five bombs struck within
13 200 yards of the U.S.S. Tutuila."

C(ORDELL) H(ULL)"

Now we offer in evidence IPS document No. 219P (67) from exhibit No. 58. This is an excerpt from a message of Ambassador Grew in Japan to Foreign Minister NOMURA, dated Tokyo, December 5, 1939.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document
No. 219P (67) will receive exhibit No. 1000.

23 ("hereupon, the document above
24 referred to was marked prosecution's exhibit
25 No. 1000 and was received in evidence.)

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1 MR. E. WILLIAMS: We read prosecution's ex-
2 hibit No. 1000.

3 "THE AMERICAN AMBASSADOR IN JAPAN (GREW)
4 TO THE JAPANESE MINISTER FOR FOREIGN AFFAIRS (NOMURA)

5 "TOKYO, December 5, 1939.

6 "EXCELLENCY: I have the honor to inform
7 Your Excellency that I have been informed through
8 the American Embassy at Chungking that the property of
9 the Lutheran Brethren Mission at Tungpeh, Honan, has
10 again been damaged as the result of an air raid by
11 Japanese planes on August 1, 1939. The location of
12 this property is undoubtedly well known to the Japanese
13 military authorities since the property has been
14 bombed on two previous occasions, first on October 24,
15 1938, resulting in the death of an American national
16 and the wounding of two other American nationals and
17 again on May 2, 1939. In this connection reference is
18 made to my note No. 1105 dated October 31, 1938, and
19 to my note No. 1273 dated May 22, 1939.

20 JOSEPH C. GREW."

21 Now, I offer in evidence I. P. S. document
22 No. 219P-89, taken from Volume I, from exhibit for
23 identification 58. It is an excerpt from the statement
24 of Ambassador Grew to Foreign Minister ARITA, dated
25 February 6, 1940.

1 THE PRESIDENT: Mr. Cunningham.

2 MR. CUNNINGHAM: If the Tribunal please, I
3 would like to object to any more documents along this
4 line for the reason they are incompetent, irrelevant,
5 and immaterial, go into far too much detail, matters
6 of small claims, and have no bearing upon the vital
7 issues in this case.

8 THE PRESIDENT: Mr. Williams, do you propose
9 to offer any argument?

10 MR. E. WILLIAMS: I have this to say, if the
11 Court please. This situation of the relations between
12 the United States and Japan was for a period of time
13 made up of a number, hundreds and hundreds, of what
14 counsel would describe as small trivialities, namely,
15 the killing of American citizens; such trivialities as
16 the bombing of American missionary establishments and
17 hospitals; such trivialities as the unwarranted and
18 illegal interference with American business of every
19 kind and character in China.

20 THE PRESIDENT: Illegal, provocative acts of
21 every variety over the widest field. There is no other
22 way of proving this thing but the way you are doing it --
23 the thorough disregard of the rights of Americans --

24 MR. E. WILLIAMS: Yes.

25 THE PRESIDENT: -- in every field of activity.

1 MR. E. WILLIAMS: Yes.

2 THE PRESIDENT: The objection is overruled.

3 MR. E. WILLIAMS: We read prosecution exhibit
4 No. 1001.

5 "THE AMERICAN AMBASSADOR IN JAPAN (GREW) TO
6 THE JAPANESE MINISTER FOR FOREIGN AFFAIRS (ARITA).

7 "TOKYO, February 6, 1940.

8 "EXCELLENCY: The Tax Bureau of the so-called
9 Rehabilitation Commission at Swatow, China, which,
10 as Your Excellency is no doubt aware, is sponsored
11 by agencies of the Japanese Government, has since
12 November of last year levied taxes on imports and
13 exports at that port. This Commission has issued
14 regulations announcing the collection, as of November
15 1, 1939, of a five per cent ad valorem tax on local
16 produce and a ten per cent ad valorem tax on imports
17 not liable to the Consolidated Tax, and it has also
18 commenced the collection of a forty per cent ad valorem
19 tax on postal parcels entering Swatow. I am instructed
20 by my Government to protest this illegal and unwar-
21 ranted action of the Swatow Rehabilitation Commission."

22 Next, we offer in evidence I. P. S. document
23 No. 219P-68, from exhibit for identification No. 58.
24 This is an excerpt from --

25 THE PRESIDENT: The last document was admitted

1 on the usual terms.

2 CLERK OF THE COURT: That last document, to-wit,
3 219P-89, and admitted according to order of Court, was
4 given exhibit No. 1001.

5 (Whereupon, the above-mentioned docu-
6 ment was marked prosecution's exhibit No. 1001
7 and received in evidence.)

8 THE PRESIDENT: The last document tendered
9 is admitted on the usual terms.

10 CLERK OF THE COURT: Prosecution's document
11 No. 219P-68 will be given exhibit No. 1002.

12 (Whereupon, the above-mentioned docu-
13 ment was marked prosecution's exhibit No. 1002
14 and received in evidence.)

15 MR. E. WILLIAMS: We read prosecution's exhibit
16 No. 1002.

17 "THE AMERICAN EMBASSY IN JAPAN TO THE JAPANESE
18 MINISTRY FOR FOREIGN AFFAIRS.

19 "PRO MEMORIA.

20 "In view of the aggravation of this situation,
21 the Ambassador has been instructed to approach the
22 Imperial Japanese Minister of Foreign Affairs and to
23 point out emphatically that the long-continued and
24 unlawful interference by Japanese armed forces and their
25 agencies with the movement of American citizens and of

1 American-owned merchandise at Tientsin has been the
2 subject of repeated conversations between American
3 and Japanese officials, but without cessation of
4 such interference.

5 "TOKYO, April 28, 1940."

6 Now, if it please the Tribunal, we offer
7 in evidence I. P. S. document 2383-A, which is com-
8 prised of two letters with inclosures, dated June 15,
9 1939 and June 25, 1939, from Ambassador Craigie to
10 Minister ARITA. This document was captured from the
11 Japanese Foreign Office and has been duly authenti-
12 cated.

13 THE PRESIDENT: Admitted on the usual terms.

14 CLERK OF THE COURT: Prosecution's document
15 No. 2383-A will be given exhibit No. 1003.

16 (Whereupon, the above-mentioned docu-
17 ment was marked prosecution's exhibit No. 1003
18 and received in evidence.)

19 MR. E. WILLIAMS: We now read in evidence
20 prosecution's exhibit No. 1003.

21 "Letter from Craigie to ARITA dated 15 June
22 1939.

23 "BRITISH EMBASSY, TOKYO. 15th June, 1939.

24 "IMMEDIATE.

25 "My dear Minister:

1 "With reference to our conversation yesterday
2 I am sorry to say that I have now received news from
3 His Majesty's Consul-General at Tientsin indicating
4 that the military restrictions now being imposed on
5 communications with the British Concession are being
6 applied in such a way as to constitute definite and
7 grave anti-British discrimination. According to this
8 report all British subjects are being held up for from
9 one-half to one hour and rigorously searched on enter-
10 ing and leaving the Concession in the same manner as,
11 and together with, all Chinese. Other foreigners are
12 being allowed to pass without stoppage or examination.
13 It further appears that some British subjects, includ-
14 ing military in uniform, have been refused exit.

15 "By no process of reasoning can such discrimina-
16 tion against British subjects be justified by the Japan-
17 ese authorities on the plea either of self-defense or
18 in connection with the case of the four Chinese which
19 we discussed yesterday. I cannot believe that such
20 action has the authority or even the approval of the
21 Japanese Government and I must, therefore, ask Your
22 Excellency to be good enough to arrange for instruc-
23 tions to be despatch to the proper Japanese authorities
24 in Tientsin to ensure that every form of discrimination
25 against British subjects is at once discontinued."

1 "The matter being, as you will see, very
2 urgent, I should be most grateful if Your Excellency
3 would, if possible, let me have a reply to this letter
4 today in order that I may give His Majesty's Govern-
5 ment precise information as to the attitude of the
6 Japanese Government in the matter.

7 "Believe me, my dear Minister, Yours very
8 sincerely.

9 "R. L. Craigie."

10 Addressed to: "His Excellency, Mr. Hachiro
11 ARITA, His Imperial Japanese Majesty's Minister for
12 Foreign Affairs."

13 "Letter from Craigie to ARITA dated 25 June
14 1939.

15 "BRITISH EMBASSY, TOKYO. June 25th, 1939.

16 "Your excellency.

17 "Under instructions from His Majesty's Govern-
18 ments in the United Kingdom and New Zealand, I have the
19 honour to bring to Your Excellency's notice a case of
20 gross indignity inflicted on the 23rd instant by agents
21 of the Japanese Army upon Mr. Cecil Davis, honorary
22 New Zealand Government agent at Tientsin. The facts
23 of the case are set out in the enclosed memorandum and,
24 in accordance with my instructions I desire to protest
25 in the strongest possible manner against this insulting

1 behaviour to an official of the New Zealand Govern-
2 ment and a well-known and highly respected member of
3 the British community. This act, following on numerous
4 other cases which I brought to Your Excellency's atten-
5 tion on June 15th, 16th, 18th and 20th, leave no doubt
6 as to the deliberate nature of the provocation now
7 being offered by the local Japanese authorities. A
8 further instance of similar inexcusable behavior which
9 has since come to my notice is shown in the second
10 enclosure to this note.

11 "2. In an interview with representatives of
12 the press on the 21st instant the official Spokesman
13 of the Ministry of Foreign Affairs said that he could
14 state categorically that no indignities as reported
15 were being inflicted on British subjects entering or
16 leaving the blockaded British Municipal Area at Tient-
17 sin, and that no discrimination was being made against
18 them. This statement is not in accordance with the
19 facts disclosed in the accompanying documents.

20 "3. Your Excellency has informed me that it
21 is not the intention of the Japanese Government to
22 discriminate against British subjects, to restrict
23 their food supplies or to subject them to abuses and
24 indignities. Nevertheless, these intolerable outrages
25 continue and, as stated by the Secretary of State for

1 Foreign Affairs to the Japanese Ambassador in London
2 on the 23rd instant, are arousing great indignation
3 in Great Britain. I have accordingly received in-
4 structions to request that Your Excellency will en-
5 sure that immediate steps are taken to put a stop
6 to these acts and to provide that proper respect
7 be given to the rights under which British subjects
8 are entitled by treaty to live and trade peacefully
9 in China.

10 "I avail myself of this opportunity to
11 renew to Your Excellency the assurance of my highest
12 consideration.

13 "Signed."

14 Addressed to: "His Excellency, Mr. Hachiro
15 ARITA, His Imperial Japanese Majesty's Minister for
16 Foreign Affairs."

17 "Enclosure No. 1 in Note to Minister for
18 Foreign Affairs No. 127.

19 "Mr. Cecil Davis, Chairman of the Tientsin
20 Country Club and honorary Agent of the New Zealand
21 Government when he attempted to pass the barriers on
22 the night of June 23rd was told when he reached the
23 inspection shed to take off his clothes. He demurred
24 and stated if that were to be the proceeding he would
25 not pass the barriers at all but would stay the night

1 in the Concession. The inspecting officer promptly
2 struck Davis on the face and told him he would have to
3 go. At this stage three other Japanese who were
4 abetting rose up and Davis felt in the circumstances
5 he had no alternative but to submit to whatever treat-
6 ment was given him. He was then made to remove all
7 his clothing except his briefs and spent fifteen min-
8 utes in full view of the passers-by including women,
9 during which time his clothing et cetera were subjected
10 to delatory examination. On leaving his passport was
11 left on the ground."

12 THE PRESIDENT: We will recess now for fif-
13 teen minutes.

14 (Whereupon, at 1445, a recess was
15 taken until 1500, after which the proceedings
16 were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: The Chamber matter set down
4 for Monday next will be taken on Tuesday at the same
5 hour.

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6 MR. BROOKS: If your Honor please, will the
7 date of filing of the applications also be extended
8 one day?

9 THE PRESIDENT: Yes.

10 MR. HARDIN: If it please Mr. President, I
11 will pick up with the enclosure where Mr. Williams
12 left off.

13 "Enclosure No. 2 in Note to Minister for Foreign Affairs
14 No. 127

15 "Substance of a Statement Regarding the Treatment
16 of

17 "Mr. Lord and Mr. House at the barrier at Tientsin.

18 "1. Mr. House and Mr. Lord were placed on a
19 straw mat in a hut in full view of all persons passing
20 through, irrespective of sex or nationality. The Chin-
21 ese police were detailed to search them whilst one
22 Japanese soldier stood in front to watch. There were
23 four other Japanese sitting around.

24 "2. The Chinese police were considered by
25 Japanese to be too inoffensive in their search so they
were slapped in the face and the Japanese took charge."

1 "Mr. House and Mr. Lord were forced to remove all their
2 clothing and pile it on the muddy floor and all articles
3 were removed from their pockets and placed likewise on
4 the floor. Mr. House was standing absolutely naked for
5 at least five minutes. Mr. Lord still had briefs on
6 which he was not obliged to remove, but he stood clothed
7 in them alone for the best part of ten minutes.

8 "3. Each article of clothing was inspected
9 and thoroughly examined.

10 "4. After examining the men's clothing the
11 Japanese took their passports, which he had thrown
12 on the floor, and ruffled the hair of both men. He
13 made signs for Mr. Lord to open his mouth and being
14 dissatisfied that it was sufficiently widely open he
15 deliberately took Mr. Lord's passport and forced his
16 mouth open with it. He then made both men stand with
17 their legs apart and examined their crutches. This com-
18 pleted the search except that the Chinese police were
19 made to take hold of Mr. Lord's ears and examine them.

20 "6. The whole proceedings lasted approxi-
21 mately twenty to twenty-five minutes, during which
22 time both men were in full view of the public and
23 women were passing through the hut.

24 "Enclosure No. 3 in Note to Minister for Foreign Affairs
25 No. 128

"Tientsin: Interference with food supplies."

1 "The Japanese military spokesman at Tientsin
2 stated in an interview given to the press on the 19th
3 June that the Japanese had no intention of stopping
4 foodstuffs entering the Concession as such a prohibi-
5 tion would be most inhuman. In connexion with this
6 statement the following facts were noted:-

7 "1. The Japanese authorities have turned
8 back boats bringing food up the river for the British
9 Concession.

10 "2. On the 19th June a 'Domei' report from
11 Tientsin stated that 'three trucks loaded with fresh
12 vegetables were admitted yesterday to the French Con-
13 cession to ease the vegetable famine there.' An arrange-
14 ment was consequently made by the French authorities
15 with the Japanese authorities that normal supplies
16 should be brought into the French Concession by French
17 Military lorries and the existence of this arrangement
18 was confirmed by a 'Domei' report appearing in Tient-
19 sin on the 23rd June. Both these reports of special
20 arrangements with the French authorities are admiss-
21 ions that food supplies entering the British Concession
22 are subject at least to interference and obstruction.

23 "3. As a direct result of the Japanese mea-
24 sures perishable foodstuffs are very short in the Brit-
25 ish Concession. For example, it is understood that

1 on the 21st June 10 per cent of the usual quantities
2 of vegetables were available in the Concessions, while
3 no ice was available to the British market at all."

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Then we offer in evidence IPS document
1 219P (90) taken from exhibit 58 for identification.
2 This is an except from a communication of Ambassa-
3 dor Grew to Foreign Minister ARITA, dated March 20,
4 1940.

5 THE PRESIDENT: Admitted on the usual
6 terms.

7 CLERK OF THE COURT: Prosecution's document
8 No. 219P (90) will receive exhibit No. 1004..

9 (Whereupon, the document above
10 mentioned was marked prosecution's exhibit
11 No. 1004 and received in evidence.)

12 M. HARDIN: (Reading)

13 "THE AMERICAN AMBASSADOR IN JAPAN (GREW)
14 TO THE JAPANESE MINISTER FOR FOREIGN AFFAIRS (ARITA)
15 "EXCERPTS.

16 "No. 1498

17 "The American Ambassador presents his com-
18 pliments to His Excellency the Japanese Minister for
19 Foreign Affairs and has the honor to inform Mr. ARITA
20 that the Japanese naval authorities in South China re-
21 fuse to permit American oil companies to ship kerosene
22 to the Manhoi District, near Canton, which contains
23 the important city of Fatshan."

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1 "Mr. Grew is desired by his Government to
2 emphasize to Mr. ARITA that the restrictions im-
3 posed by the Japanese Navy on the oil companies
4 not only constitute an unwarrantable interference
5 with the legitimate activities of American citizens
6 but prejudice the repeated assurances of the Japan-
7 ese Government that American rights and interests
8 in China will be respected . . .

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10 TOKYO, March 20, 1940."

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1 We offer in evidence IPS document 219P (91)
2 from exhibit 58 for identification, which is an
3 Aide-Memoire of American Embassy in Japan to Japa-
4 nese Foreign Minister, July 15, 1940.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 219P (91) will receive exhibit No. 1005.

8 (Whereupon the document above
9 mentioned was marked prosecution's exhibit
10 No. 1005 and received in evidence.

11 MR. HARDIN: We read prosecution's exhibit
12 No. 1005.

13 "THE AMERICAN EMBASSY IN JAPAN TO THE JAPA-
14 NESE MINISTRY FOR FOREIGN AFFAIRS

15 "AIDE-MEMOIRE
16 "Excerpts.

17 "The Japanese Government will recall the
18 repeated representations of the Government of the
19 United States in regard to the discriminatory treatment
20 accorded American trade in North China as compared with
21 treatment accorded Japanese trade as result of the con-
22 trol exercised by the Japanese-sponsored authorities
23 there over the exchange accrued from exports and thus
24 indirectly over imports. The Government of the United
25 States is not aware that there has been any ameliora-

1 tition of the situation thus complained of. It is now
2 learned that the Japanese Government-controlled author-
3 ities in North China have established full exchange con-
4 trol over imports as well as over shipments from Cen-
5 tral and South China thus completing their control over
6 the trade of the area.

7

8 "The Japanese Government has heretofore de-
9 clared its intention to uphold the principle of equality
10 of treatment in China. The notice issued by the Super-
11 intendent of Customs at Tientsin in connection with the
12 new regulations specifically exempts imports from Japan
13 or Manchuria from the application of those regulations
14 and thus publicly advertises that the regulations are
15 discriminatory.

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17 TOKYO, July 15, 1940."

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1 Now, if it please the Tribunal, we wish to
2 offer in evidence IPS document No. 1383B (42) which
3 is the certificate of authentication of exhibits
4 1383B (1) through (41), inclusive, most of which are
5 to be presently tendered to the Tribunal separately
6 and as separate documents all authenticated by this
7 one certificate and all of which are taken from the
8 Japanese Foreign Office in Tokyo. I would like to
9 add --

10 THE PRESIDENT: We would like to know the
11 exhibit numbers. Have you tendered these documents
12 already? You are just about to tender the documents?
13 You are tendering certificates separately?

14 MR. HARDIN: I am tendering the certificate,
15 which is a group certificate, as a separate document.

16 THE PRESIDENT: Ahead of the exhibit it-
17 self?

18 MR. HARDIN: Ahead, yes.

19 THE PRESIDENT: Mr. Levin.

20 MR. LEVIN: I was under the impression that
21 Mr. Hardin had already offered the exhibits in evi-
22 dence, 1383B (1) and the consecutive numbers.

23 Have you offered them?

24 MR. HARDIN: I have not.

25 MR. LEVIN: I would like to call the

attention of the Court, with reference to this group
of exhibits, to the fact that they were not served on
defense counsel, either the American or the Japanese,
until this morning at 9:40, and some of them were
served about 10:20 in the morning. I think the
Court appreciates the difficulty under which the
defense counsel are working even when the documents
are served on us on time according to the order of
the Court, and that it makes it more difficult or
almost impossible to have any idea of what these
documents contain unless they are served at least
within twenty-four hours in advance. That requires
us to work late at night in any event.

MR. HARDIN: Your Honor, it is true that
these processed copies were not served until this
morning. They are all from the Japanese Foreign
Office. It was an oversight somewhere. Saturday
they told me they were all ready to serve and would
be served Monday morning.

Now, there is a qualification. Some of
these were served last night. I did not know the
difference until out of the court, and I got back to
the office about 4:30. Then we started out serving
them, and they did not get many of them served until
this morning. At what hour this morning, I do not

know. I worked at this Saturday morning, and the
1 things were all processed and everything ready for
2 distribution, but, of course, defense counsel were
3 not in their offices Saturday; it could not be served.
4

THE PRESIDENT: We fully appreciate the
5 attitude of the defense in this matter. We have
6 every sympathy with them. And, if they insist, I
7 think the Court will require you to defer the tender-
8 ing of these documents until tomorrow morning. How-
9 ever, we would like to avoid wasting so much time.
10 You may have other exhibits --

MR. LEVIN: Mr. President, I would like to
12 say that we do not, in view of the circumstances,
13 want to cause any delay. We will have no objection
14 to the reading of these exhibits with the under-
15 standing that we might in the morning, if we see fit,
16 offer any objection to the exhibits that have al-
17 ready been offered, in view of the fact that we had
18 no opportunity to examine them heretofore.
19

THE PRESIDENT: Of course, it is undesirable
20 that any exhibits or documents to which the defense
21 should successfully object should appear in the
22 transcript or in the record. However, we admit the
23 certificate on the usual terms, and then you may
24 proceed to tender the documents which follow it,
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1 which are certified to, subject to any objection the
2 defense take.

3 The certificate may be given a number.

4 CLERK OF THE COURT: Prosecution's document,
5 entitled "Certificates of Authenticity, 1383B (42),
6 will receive exhibit No. 1006.

7 (Whereupon, the document above
8 mentioned was marked prosecution's exhibit
9 No. 1006 and received in evidence.)

10 MR. HARDIN: I would like to express, Mr.
11 President, with your permission, appreciation for
12 the fairness of the attitude of the defense counsel.

13 THE PRESIDENT: I am sorry.

14 (Whereupon, a discussion was had
15 by the Members of the Tribunal off the
16 record.)

17 MR. HARDIN: Mr. President, I deem it un-
18 necessary to read the certificate.

19 THE PRESIDENT: Unnecessary. You have de-
20 scribed what it covers.

21 MR. HARDIN: My apology. I did not --

22 THE PRESIDENT: You have described what it
23 covers.

24 MR. HARDIN: Yes, sir.

25 THE PRESIDENT: It seems to cover document

1 1383B (1) to (42), inclusive.

2 MR. HARDIN: Yes, sir. I deem it necessary
3 to explain that 42 -- 1383B (42) was abandoned, and
4 the certificate takes the number (42).

5 THE PRESIDENT: It does not appear here on
6 the certificate, but that is a fact, is it?

7 MR. HARDIN: Yes, sir.

8 Now, if it please the Tribunal, we will
9 proceed to offer successively thirty-four such
10 separate documents all of which were taken from the
11 Japanese Foreign Office and authenticated by prose-
12 cution exhibit No. 1006.

13 First we offer IPS document 1383B (1),
14 entitled "Top Secret; Economic Policy which should
15 be taken in connection with Diplomacy towards U.S.A.,"
16 dated March 3, 1940.

17 THE PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Prosecution's document
19 No. 1383B (1) will receive exhibit No. 1007.

20 (Whereupon, the document above
21 mentioned was marked prosecution's exhibit
22 No. 1007 and received in evidence.)

23 MR. HARDIN: We read prosecution exhibit
24 No. 1007:

"Top Secret

1 "Economic Policy which should be taken in
2 connection with Diplomacy towards U. S. A.

3 "March 3, 1940.

4 "I. Ever since the outbreak of the
5 Incident, the attitude of the U. S. has been to
6 maintain the body of the Nine-Power Treaty and basing
7 her Far East policies upon it, and to absolutely
8 repudiate the establishment of the New Order in East
9 Asia. Taking advantage of the abolition of the
10 Commercial and Navigation Treaty, the high-handed
11 attitude of the U.S. seems to be getting stronger.
12 Recently, America laid a 'moral embargo' on aviation
13 oil refining machine, aluminum and molybdenum. The
14 drafts of laws (for example, the PITTMAN proposal)
15 regarding the embargo of war materials for Japan,
16 which was under discussion in the Senate Foreign
17 Affairs Committee, was reported to be temporarily
18 postponed. We cannot say when it will be discussed
19 again. On the other hand, we cannot ignore the move-
20 ment of 'moral embargo' against Japan among civilian
21 organizations. According to future situations, the
22 above-mentioned draft of embargo law may be passed,
23 or perhaps moral embargo measures may be carried out.

24 "II. The internal reason why the Japanese

Government could not assume a resolute attitude
1 against America was due to the intense reliance of
2 Japan upon America for acquiring resources neces-
3 sary for carrying out the divine war.

4 "The American pressure against Japan, how-
5 ever, will become heavier as long as she realizes
6 the reliance of Japan upon her. By taking advantage
7 of the absence of a treaty, America will probably
8 intensify the pressure by gradually broadening the
9 scope of the embargo or perhaps by showing 'gestures'
10 of broadening the scope of embargo on all resources
11 necessary for prosecuting the divine war. As long
12 as Japan doesn't get away from the economic re-
13 liance upon America, the insincere determination of
14 Japan against America has no positive effect. There-
15 fore, the most urgent measure which Japan should take
16 is the policy of establishing an economic system not
17 threatened by the attitude of the U. S., by eliminat-
18 ing the extreme reliance upon America as at present.
19 There is no doubt that the establishment of such a
20 system itself, has a great effect in making America
21 reconsider the matter.

22 "III. In case the U.S. imposes a moral or
23 legal embargo of the materials which Japan imports
24 from the U. S., Japan will feel the greatest need of

1 scrap iron, petroleum (especially aviation gaso-
2 line), electrical copper, molybdenum, vanadium and
3 machine tools. In regards to these materials, we
4 will do our utmost to plan the elimination of re-
5 liance upon the U. S. as soon as possible and take
6 the measures listed in the following paragraphs.
7 Although our country imports a great deal of raw
8 cotton from America, America will not dare to for-
9 bid the export of it by considering the situation
10 of the American farmers. Even if the embargo is
11 carried out, we will not feel too much difficulty
12 because we will be increasing the amount of purchase
13 of raw cotton from Brazil, Peru, Iran, etc.

14 "1. Scrap Iron.

15 "Concerning manufacturing of iron, we will
16 endeavor to perfect at all costs the method of manu-
17 facturing iron from ore so as to be independent from
18 scrap iron (annual amount about 2,000,000 tons)
19 imported from America at present. We will manage to
20 supply our demand with about 1,000,000 tons of do-
21 mestic product and scrap iron imported from the
22 Straits Settlements, India, Australia, China, etc.,
23 (about 300,000 tons can be imported). Note: When
24 America lays embargo, it is hard to import scrap
25 iron by way of a third power. Therefore, we should

not expect upon such torporizing measures.

1 "2. Petroleum.

2 "Concerning petroleum, we shall plan on one
3 hand to import it from a third power besides America,
4 and, on the other hand, we will make a plan and
5 carry it out to make rapid expansion in the pro-
6 duction of artificial petroleum by reexamining funda-
7 mentally the plan of production expansion of artificial
8 petroleum.

9 "Concerning the amount of imported petroleum,
10 we can almost secure the present amount by so negotia-
11 ting with third powers such as 'Mexico,' 'Arabia,' 'Iran,'
12 'Venezuela,' 'Netherland Indies,' 'Rumania,' etc.

13 "The only problem is the 'gasoline' for
14 aviation (crude and refined oil) for which we have
15 been exclusively dependent on America. Concerning
16 this matter, we will accomplish refinery plants of
17 'gasoline' for aviation and study method which
18 enables us to refine 'gasoline' for aviation from any
19 kind of crude oil, by devoting all wisdom of science
20 of Japan to it, and at the same time, we will plan
21 to import crude oil of high quality from 'Venezuela'
22 and others.

23 "3. Electrolytic Copper.

24 "At present about half of the domestic

demands for electrolytic copper is imported from
1 America, and the other half is supplied by domestic
2 production, but, judging from the attitude of
3 Canada, it is almost impossible to import the
4 amount now imported from America from Canada. There-
5 fore, we shall produce electrolytic copper by ex-
6 panding largely the equipments of manufacturing the
7 copper in Japan, and by importing a large amount of
8 copper are from Peru, Chile, etc., and for this
9 purpose, we must consider the expansion of electric
10 power and ships.

11 "4. Molybdenum and Venadium.

12 "These two are necessary for manufacturing
13 'special steel,' but we shall eagerly study to change
14 the method of manufacturing special steel to 'tung-
15 sten basis' and try to largely decrease demands for
16 'molybdenum' and 'venadium' by using 'tungsten' pro-
17 duced in Korea and South China.

18 "5. Concerning machine tools, we have been
19 dependent on America and Germany, but at present, when
20 we cannot expect much of Germany, the amount depend-
21 ent on America will be increased more and more, but
22 taking it into consideration that America will not
23 export them to us in the near future, we must make
24 up our mind to do without America and take measures

1 to gratify internal demands by improving and ex-
2 panding domestic production.

3 "6. Any other materials than scrap iron,
4 petroleum, electrolytic copper, 'molybdenum,'
5 'venadium' and machine tools that may be subject
6 to 'embargo.' Therefore, regarding the materials
7 highly dependent upon America some suitable measures
8 must be taken by following the examples from (1)
9 to (5).

10 "IV. It is easily imagined that in order to
11 carry out No. 3 which is mentioned above, a great
12 deal of funds (material) is necessary. And so the
13 fund is to be worked out by turning military funds
14 temporarily. Materially speaking, the rationaliza-
15 tion of the fund for the China Incident must be con-
16 sidered, and at the same time, the 'Expansion Plan
17 for military equipments against the Soviets' must be
18 contented, for the time being, with the equipments not
19 regrettable for the defense against the Soviets. All
20 the fund and material thus spared should exclusively
21 be spent to expand production so as to get rid of the
22 economic condition now dependent on America. Further-
23 more, the present production expansion plan must
24 fundamentally be revised according to the aforesaid
25 purport. 'Real expansion of production is the mother

1 of consolidation of military equipments.' Accord-
2 ingly, it is clear that, by waiting patiently for
3 several years according to the aforesaid principle,
4 the Expansion Plan of the military equipments will
5 be carried out much easier.

6 "V. In order to carry out the above-men-
7 tioned policy thoroughly, it is necessary to synthe-
8 size and consolidate the organism of 'internal
9 economic control.' Fundamentally speaking, it is all
10 the more necessary to turn the motive of enterprise
11 from the pursuit of profit to the welfare of our
12 nation. Outside our country we should try to con-
13 solidate more the intimate relationship between
14 Japan, Manchukuo and China, and at the same time to
15 perfect measures to bring the southern countries in
16 our economic sphere. As for the temporary adjust-
17 ment of the relation with the Soviets, we have to
18 make much more effort to promote it.

19 "VI. The reason why the Far Eastern Policy
20 of the 'Roosevelt regime' is supported by the public
21 opinion of America is that the diplomacy of his
22 regime is attaining or carrying out what is intended
23 by America without danger of involving her in a war,
24 and as long as Japan does not get rid of such econom-
25 ic dependence upon America as at present, it is

1 necessarily sure that such a policy as that of
2 'Roosevelt regime' will be preponderant. But, if
3 Japan earnestly tries to find out measures to get
4 rid of the economic dependence upon America, especi-
5 ally the dependence of those resources which are now
6 the object of embargo towards Japan, we shall no
7 longer be threatened by the embargo of America to-
8 wards Japan. We will strive to secure such situa-
9 tion as to give us firm resolution towards America,
10 and when we are able to hold a resolution and the
11 counter-measure to say that the legal or moral em-
12 bargo against Japan can be taken as the declaration
13 against Japan, not only the business men who have
14 had dealings with Japan but also isolationists and
15 learned people will, for the first time, recognize
16 that such a diplomatic policy as of 'Roosevelt regime'
17 may lead America to war, and those will increase
18 people one after another who hope for 'avoidance of
19 war' rather than 'isolation of invader.' Then the
20 embargo of munition towards Japan will be dissolved
21 entirely by being opposed by the public opinion."
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MR. HARDIN: Offering in evidence IPS

1 document 1383B (2), entitled "A Copy of Instruction
2 Sent to Ambassador NOMURA," dated January 22, 1941.

3 THE PRESIDENT: Admitted on the usual terms.

4 CLERK OF THE COURT: Prosecution's document
5 No. 1383B (2) will receive exhibit No. 1008.

6 (Whercupon, the document above
7 referred to was marked prosecution's exhibit
8 No. 1008, and was received in evidence.)

9 MR. HARDIN: We read prosecution's exhibit
10 No. 1008.

11 "Top Secret.

12 "A Copy of Instruction Sent to Ambassador
13 NOMURA.

14 "/Handed to Ambassador NOMURA on January 22nd/

15 "1. Unless Japan is bold enough to make great
16 changes in national policies, it is impossible for her
17 to seek American understanding for maintenance of
18 peace in the Pacific and to cooperate with her for
19 the conquest / T.N. Japanese character here used is
20 either to conquer or subjugate but it must be a mis-
21 take of to restore or return, both of which is pro-
22 nounced identically/ of world peace.

23 "2. If the present situation develops as it
24 is, no one can guarantee that in the end the U.S.A. may

1 join the European War or declare war on Japan.

2 "3. If such a thing would happen the result
3 will be a terrible world war with several times more
4 damage than that of the last world war and perhaps

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will mean the downfall of modern civilization.

"4. If there should be no means of finding direct and mutual understanding and cooperation between Japan and the U.S.A., then Japan has to join hands with countries other than Great Britain and the U.S.A. even though these may feel some threat and pressure. It is merely because we have to prevent them from declaring war on Japan or participating in the European War. This is not only for the self protection of Japan but also for the survival of all human being.

"5. Having decided that there was no other alternative left for the defense of our country or to prevent the world war we have decided to contract /T.N. the Japanese character used here for contract is obviously a mistake for it is the character for 'to correct.' The word to join or to contract has the same pronunciation but a different character/alliance with Germany and Italy.

"6. Since we joined the alliance we must hereafter conform our foreign policy as a member of the Axis, in the same way as the Anglo-Japanese Alliance of the past years was carried out.

"7. If the three powers forming the Alliance regard that a third country, which is prescribed

under the third article of the Tripartite Alliance
1 deliver an attack, Japan, as a matter of course,
2 must be faithful to the Alliance. There can be no
3 room for a doubt on this point. However, when Japan
4 decides on an important matter, it goes without say-
5 ing that she will deliberate carefully in a Cabinet
6 council.

7 "8. The conduct of the Japanese in China is
8 at present regarded as being illegal, unjust or ag-
9 gressive, but it is no more than a temporary phe-
10 nomenon. Japan will finally carry out equal and re-
11 ciprocal treaties with China. In the not distant future
12 Japan will fulfill her traditional idea of HAKKO
13 ICHIU /T.N. the eight directions or the world under
14 one roof/ laid down since her foundation.

15 "9. The Great East Asia Co-Prosperity Sphere
16 will be built on this great principle, the 'HAKKO
17 ICHIU' and my motto is 'no conquest, no oppression,
18 and no exploitation.' In short our desire is to
19 build a world of international neighbourhood and
20 mutual assistance in Greater East Asia, which will
21 set an example to the whole world.

22 "10. Putting aside such an ideal, and taking
23 up questions of daily affairs, our country is finding
24 it necessary to find a way to settle the problems

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1 of both self-supporting and self-sufficiency in
2 Greater East Asia. Are these ideals or desires of
3 Japan unjust and unreasonable, when one considers
4 the position of the U.S.A., dominating as she does
5 the whole Western hemisphere, besides extending her
6 influence over both the Atlantic and the Pacific
7 Oceans? Surely the U.S.A. can allow thus much to Japan?
8 What we are thinking about is not exclusion of for-
9 eigners. It is well for the U.S.A. to come over and
10 cooperate in the development of the Greater East
11 Asia Co-Prosperity Sphere. Their fear of loosing
12 what they need in the shape of rubber and tin is
13 ridiculous.

14 "Please make the necessary efforts to make the
15 President of the U.S.A., the Secretary of States and
16 other prominent people of the U.S.A. appreciate tho-
17 roughly the points mentioned above as well as the re-
18 marks I made while talking before the members of the
19 America-Japan Society recently and my Diet speech
20 on foreign policy.

21 "The 16th year of Showa, January 22nd.

22 "/January 22nd, 1939/

23 "His Excellency the Envoy Extraordinary and
24 Ambassador Plenipotentiary NOMURA."

25 THE PRESIDENT: Is not the 16th year of Showa

1941?

1 DR. KIYOSE: I think so.

2 THE PRESIDENT: Your certificate shows the
3 document as dated 22nd of January, 1941.

4 MR. HARDIN: That is correct, your Honor.

5 This is an error, sir.

6 THE PRESIDENT: Dr. KIYOSE.

7 DR. KIYOSE: Although we have reserved our
8 objections to the following morning, since this is a
9 very important matter I should like to be permitted
10 to say one word. On the fourth line of the first
11 paragraph we find the words "to cooperate with her for
12 the conquest." In the Japanese text -- the meaning
13 of the corresponding words in the Japanese text are
14 the establishment of peace, the re-establishment of
15 world peace, and there isn't a single word which means
16 "conquest" in any way in the Japanese text. I just
17 wanted to point this out.

18 THE PRESIDENT: I take Dr. KIYOSE to be stating
19 the fact.

20 MR. BROOKS: If the Tribunal please, will the
21 Language Section be permitted to check the date given
22 at the bottom of exhibit 1008 to see what the original
23 shows as to the year of SHOWA? It might make con-
24 siderable difference.

25 THE PRESIDENT: The Language Section may look at it.

1 MR. HARDIN: I think 1941 is correct.
2 We offer in evidence IPS document No. 1383B
3 (3) which is a telegram to Ambassador NOMURA from
4 Foreign Minister MATSUOKA, dated February 7, 1941.
5 I believe, your Honor, that I will be content with
6 reading the first and third paragraphs, submitting it
7 all in evidence. The first, introductory, paragraph
8 and paragraph No. 3.

9 (Reading)
10 "A Copy of Cable RUNNING Number 4492.
11 "Secret Code.
12 "Showa 16, 1941, February 7.
13 "Sent 7 o'clock.
14 "Director of American Affairs.
15 "Telegram to Ambassador NOMURA, from Foreign
16 Minister MATSUOKA on February 7, 1941.
17 "No. 68. "

18 My apology. Wasn't that numbered?
19 CLERK OF THE COURT: It hasn't been admitted
20 yet.

21 THE PRESIDENT: What are you waiting for,
22 Mr. Hardin?

23 MR. HARDIN: I am advised that your Honor
24 did not admit it.

25 THE PRESIDENT: Well, I was looking at the

1 preceding document, exhibit 1008. It has a note which
2 I don't recollect your reading. Have you overlooked
3 it because we had some discussion about the date?

4 MR. HARDIN: That is right, your Honor.

5 I am advised by the translation that the
6 correct date is '41 and not '39.

7 THE PRESIDENT: Major Moore.

8 LANGUAGE ARBITER (Major Moore): Mr. President,
9 if the Tribunal please, the reading 16th year of Showa
10 is correct; hence, it should read "January 22, 1941."

11 THE PRESIDENT: Thank you. How about this
12 note, Mr. Hardin?

13 MR. HARDIN: I will read the note if you
14 please, Mr. President.

15 MR. BROOKS: If the Tribunal please, I would
16 like to enter an objection to the reading of the note
17 unless it is shown by whom the note was put on. We
18 have had several notes here put on by the translator
19 from time to time and read into the record. If it is
20 on the original I think it should be shown by whom
21 it is put on, whether it is in the original or by the
22 translator.

23 THE PRESIDENT: We haven't been insisting on
24 signatures. He may read it if it is on the original.
25

MR. HARDIN: I assure you, Mr. President, it

1 is on the original.

2 THE PRESIDENT: Then read it, if you wish.

3 MR. BROOKS: Might we inquire, Mr. President,
4 if they couldn't show that it was found on the original
5 and it was in the same typing as the other matter? Is
6 that necessary?

7 THE PRESIDENT: You might mention the fact
8 if it is in a different hand or different writing.

9 MR. HARDIN: Counsel may obtain the original
10 right here with the clerk, written in Japanese, and
11 may determine whether it is there or not.

12 THE PRESIDENT: Well, you had better read it
13 to save time.

14 MR. HARDIN: (Reading)

15 "Note.

16 "The Foreign Minister gave his instructions
17 to the Ambassador when they met just before NOMURA's
18 departure, saying that Japan has made a definite
19 resolution to stand against the U.S.A. if she enters
20 the war, and this attitude would act as a check for
21 the latter participating in the war. The Ambassador
22 expressed his agreement."

23 THE PRESIDENT: The document No. 1383B (3)
24 is admitted on the usual terms.

25 CLERK OF THE COURT: Prosecution's document

1 No. 1383B (3) will receive exhibit No. 1009.
2

3 (Whereupon, the document above referred
4 to was marked prosecution's exhibit No. 1009 and
5 received in evidence.)

6 MR. BROOKS: If the Court please, on the
7 comment on that note, from the original you can't tell.
8 It is a copy of an original, as we gather, and it is
9 impossible to tell from the document before the Court
10 who put that on or when it was placed on.

11 THE PRESIDENT: Major Moore.

12 LANGUAGE ARBITER (Major Moore): If the
13 Tribunal please, the note, which happens to be on a
14 separate page in the English, is the same way in the
15 original, but the four sheets are all a part of one
16 document in the original Japanese.

17 THE PRESIDENT: I think we have heard enough.
18 I was going to ask whether it appeared to be a continu-
19 ation of the same writing but there is no need for that.

20 MR. HARDIN: For the record's sake, your Honor,
21 I would like to say that definitely is shown by the
22 certificate and, in fact, that is the identical four-
23 page document in Japanese taken from the Japanese Foreign
24 Office.

25 THE PRESIDENT: You are going to read parts
of this last exhibit, 1009?

1 MR. HARDIN: (Reading)
2 "Telegram to Ambassador NOMURA, from Foreign
3 Minister MATSUOKA on February 7, 1941.
4 "No. 68.
5 "I have been endeavouring to answer frankly
6 for the interpellation at the Diet regarding our
7 attitude and resolution to request America for re-
8 consideration concerning us, and to explain that our
9 national power has not been so much exhausted and
10 enfeebled. Therefore, I beg you, on your arrival
11 there, to endeavour further to explain thoroughly the
12 following points to the President and the influential
13 men both in and out of office to make them fully under-
14 stand our real intentions.
15 "There may be none in our country who wishes
16 to wage war against America. If, unfortunately Japan
17 and America come to fight, it will certainly be the
18 American people that will initiate the war positively,
19 for America has never opened a war passively."
20 THE PRESIDENT: You have read the paragraph
21 commencing: "There may be none in our country,"
22 paragraph 3.
23 MR. HARDIN: Mr. President, I beg your pardon?
24 THE PRESIDENT: I made a statement for record
25 purposes only. You need not worry about it.

1 Well, this is a convenient break, Mr. Hardin.
2 We will adjourn now until half past nine tomorrow
3 morning.

4 (Whereupon, at 1600, an adjournment
5 was taken until Wednesday, 6 November 1946,
6 at 0930.)
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